

FILED IN CASE 1:16-cr-00034-DAK-BCW  
UNITED STATES DISTRICT COURT, DISTRICT OF UTAH  
JUN 19 2018  
D. MARK JONES, CLERK  
DEPUTY CLERK

UNITED STATES DISTRICT COURT BY  
DISTRICT OF UTAH, NORTHERN DIVISION

Criminal No. 1:16cr00034DAK

UNITED STATES OF AMERICA,  
  
v.  
  
OLEG MIKHAYLOVICH TISHCHENKO,  
  
Defendant.

SEALED

**AFFIDAVIT IN SUPPORT OF REQUEST FOR EXTRADITION OF OLEG MIKHAYLOVICH TISHCHENKO**

I, Mathew Lowry, being duly sworn, affirm and state as follows:

1. I make this affidavit in support of the request of the United States of America to Georgia for the extradition of Oleg Mikhailovich TISHCHENKO.
2. I have been a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations (HSI), for approximately 12 years. In my current capacity, I have participated in counter-proliferation investigations involving the illegal export of military and defense articles, "dual use" items (used in both civil and military functions), as well as items found on the United States Munitions list, from the United States. Additionally, I am empowered to conduct investigations of offenses against the United States, conduct searches at the border and its functional equivalent, conduct inquiries into alienage and removability, execute and serve search or arrest warrants, serve subpoenas and summonses, administer oaths, make arrests without a warrant, require and receive information relating to offenses, bear firearms, and execute warrants issued under the authority of the United States.
3. In my capacity as a HSI Special Agent, I am assigned to, and responsible for,

the investigation that resulted in the indictment and issuance of an arrest warrant for TISHCHENKO in *United States v. Oleg Mikhaylovich Tishchenko*, criminal case number 1:16cr00034DAK, pending in the United States District Court for the District Of Utah, Northern Division. I have participated in this investigation and I am familiar with the facts and evidence in the case.

4. The information contained in this affidavit is based upon my personal knowledge and observations during the course of this investigation, information provided to me by other law enforcement agents, and a review of numerous documents and records. Additionally, this affidavit is based upon my training and experience as well as that of other law enforcement agents working with me in this investigation. This affidavit is intended to show that there is sufficient evidence for extradition and does not purport to set forth all of the information about which I, or other law enforcement authorities involved in this investigation, have knowledge regarding this investigation and criminal case.

#### **SUMMARY OF FACTS**

5. On June 22, 2011, TISHCHENKO initiated communications on the Digital Combat Simulator (DCS) online forum entitled "Help needed with eBay item shipping." TISHCHENKO addressed online forum users by stating he was preparing to bid on a series of F-16 A/B Air Defense Fighter (ADF) manuals being sold on eBay. TISHCHENKO requested shipping assistance from forum users due to the restrictions placed on internationals bidders. TISHCHENKO stated the seller would not ship the items outside of the U.S. TISHCHENKO requested a DCS forum user receive the packages and forward the items to Moscow, Russia. TISHCHENKO'S eBay profile listed his occupation as a Developer for Eagle Dynamics, located in Moscow, Russia.

6. On June 23, 2011, a DCS forum user "Moby" offered to assist TISHCHENKO with receiving and shipping the F-16 A/B flight manuals. The profile associated with the DCS forum user "Moby" was identified as belonging to a Kenneth SULLIVAN, a resident and national of the United States of America.

7. On June 29, 2011, the eBay auction ended. On October 25, 2011, SULLIVAN posted a comment that he had shipped the Air Force Technical Orders (flight manuals) and was concerned that he had violated the law. Additionally, SULLIVAN stated, in DCS online communications with TISHCHENKO, that he "didn't see anything that said classified. . . . Shit...I hope not. I figured if it was on eBay it wouldn't be an issue. If I get busted can you send me a hack saw."

8. At no time did either party attempt to obtain the requisite export licenses from the Directorate of Defense Trade Controls (DDTC), which is responsible for the export and temporary import of defense articles and defense services covered by the International Trafficking in Arms Regulations (ITAR) and the United States Munitions List, related to the flight manuals. Furthermore, at no time did either party attempt to acquire the requisite export licenses from the DDTC in the District of Utah, or elsewhere, for export from the U.S. of defense articles to Moscow, Russia.

9. In response to SULLIVAN'S statement that he may have violated the law, TISHCHENKO replied, stating that SULLIVAN need not worry, as "those manuals were obsolete and even classified ones lose their value after such a long period of time. . . . I am buying similar manuals on eBay time to time. Thank God sellers usually do not ship them directly to Russia." An analysis and review of TISHCHENKO'S eBay auction records revealed that he repeatedly auctioned off F-16A flight manuals, including the F-16A Fault

Reporting Manual, and the F-16A General Vehicle Description, on disc, to numerous buyers located around the world, such as Cyprus, Japan, the Netherlands, Australia, Germany, and Taiwan.

10. On approximately February 27, 2016, eBay sent TISHCHENKO an email to his eBay registered email account informing him the technical data he was selling via eBay was considered restricted material. Specifically, eBay explained that several of the items he had listed for sale were controlled by the ITAR and eBay included two hyperlinks to eBay's policies regarding the selling of military products and a link to a web page explaining the ITAR.

11. In March 2016, a HSI Undercover Agent (UCA) established contact with TISHCHENKO via the DCS forum. The UCA posted a message to TISHCHENKO inquiring about the possibility of obtaining flight manuals related to U.S. aircraft. In March 2016, TISHCHENKO responded to the UCA and requested the UCA contact him directly on Skype.

12. As the UCA and TISHCHENKO began communicating via Skype, TISHCHENKO stated to the UCA that he had been "collecting manuals for many years now . . . and still can't reach some stuff. We need it in our work . . . I'd like to get some maintenance manuals for F-16C related to avionics. Needed to understand how the stuff works to implement in the DCS . . . actually maintenance manuals for any of jets including A-10, so called 'General System' manuals where the systems are described in good detail."

13. The UCA replied that "the biggest issue is if a product requires an export license or not. if one is required, then the U.S. government will want to know answers to certain questions, such as who is the end user, for what purpose will the

products be used, and in what country will they be shipped to. If the international customer cannot answer those questions, then we can find a 'creative' way to still ship."

TISHCHENKO replied to the UCA, stating, "Yes I know. We are not US government contractors, thus the direct request from Eagle Dynamics is not an option."

TISHCHENKO also informed the UCA that he would like to acquire F-35 and F-22 flight manuals and "could guarantee that these manuals will not be provided to any third persons and I think even not shown to anyone in our company (Eagle Dynamics)." Also in March 2016, the UCA informed TISHCHENKO that the manuals that he was seeking all require an export license. TISHCHENKO replied, stating, "I know. But I am getting such stuff time to time from various people. For example, I have a huge collection of F/A-18 manuals." On March 26, 2016, TISHCHENKO sent to the UCA a list of 26 manuals that he was seeking to obtain.

14. On, or about May 30, 2016, TISHCHENKO sent the UCA an email containing a technical manual for the A-10 fighter jet. The manual that TISHCHENKO sent to the UCA had the following written on the bottom of the cover page: "this document contains technical data whose export is restricted by the Arms Export Control Act or Executive Order 12470. Violations of these export laws are subject to sever criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25."

15. On June 6, 2016, HSI and US Air Force Special Agents arrested SULLIVAN, at his place of employment in Texas. During a post-arrest interview, SULLIVAN stated that he had sent TISHCHENKO F-16 flight manuals via the U.S. Postal Service and labeled the package as "books" and TISHCHENKO paid SULLIVAN for his services.

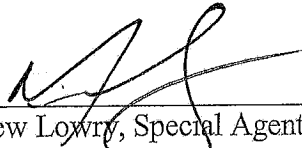
**IDENTIFICATION AND LOCATION**

16. TISHCHENKO is a citizen of Russia. He was born on April 19, 1977. He is described as a white male with brown hair and brown eyes. TISHCHENKO is a holder of a Russian passport, bearing number 710077465, with an expiration date of March 22, 2020.

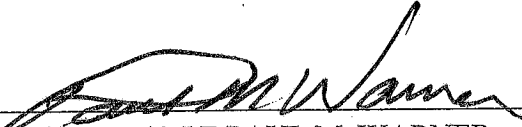
17. During the investigation, U.S. law enforcement authorities obtained information identifying TISHCHENKO as the person who conducted and engaged the activities described above. Moreover, while acting undercover, I obtained TISHCHENKO's photograph from his Skype ID and participated in Skype video conversations with him. The person with whom I participated in the Skype video chats is the same person that appears in the photograph attached to this affidavit as Exhibit D-1. This photograph was submitted by TISHCHENKO to U.S. authorities in conjunction with a visa application.

**CONCLUSION**

18. This affidavit was sworn to before a U.S. Magistrate Judge legally authorized to administer an oath for this purpose.

  
\_\_\_\_\_  
Mathew Lowry, Special Agent  
U.S. Department of Homeland Security, Homeland  
Security Investigations

Sworn before me and subscribed in my presence this 19<sup>th</sup> day of June 2018.

  
\_\_\_\_\_  
THE HONORABLE PAUL M. WARNER  
UNITED STATES CHIEF MAGISTRATE JUDGE