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UNSEALED PER ORDER OF COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
FEB 10 2017
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY

UNITED STATES OF AMERICA,

Case No.:

v.

COMPLAINT '17MJ0424

MARIO HERRERA,

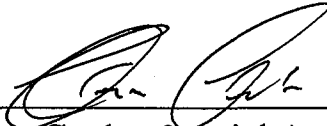
Title 18 U.S.C., Sec. 371-
Conspiracy To Commit Bribery

Defendant.

The undersigned affiant being duly sworn states:

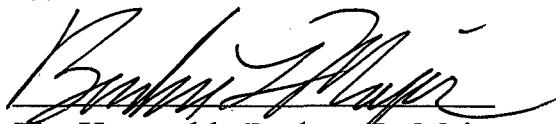
In or about November 2008, defendant MARIO HERRERA, a public official, knowingly and intentionally joined an ongoing conspiracy to commit bribery that lasted at least until in or about September 2013, and HERRERA and his co-conspirators took overt acts in furtherance of the conspiracy, in violation of Title 18, United States Code, Sections 371 and 201(b)(2)(A) and (C).

The affiant further states that this Complaint is based on the attached Affidavit, which is incorporated herein by reference.



Oscar Cunha, Special Agent, DCIS

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE,
THIS 10th DAY OF FEBRUARY, 2017.



The Honorable Barbara L. Major
United States Magistrate Judge

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Oscar Cunha, hereby depose and state as follows:

AFFIANT

1. I am a Special Agent with the Department of Defense, Office of Inspector General, Defense Criminal Investigative Service ("DCIS"), San Diego Resident Agency. I have been so employed since June 2016. Before my employment with DCIS I was a Special Agent of the Naval Criminal Investigative Service ("NCIS") for approximately 5 ½ years. I am a sworn federal law enforcement officer with the authority to execute arrests and search warrants under the authority of the United States within the meaning of 18 U.S.C § 2510(7). My relevant training and experience includes completion of the Criminal Investigator Training Program and the Special Agent Training Program at the Federal Law Enforcement Training Center in Brunswick, Georgia. In my combined law enforcement experience, I have been responsible for investigating major criminal offenses, crimes against persons, fraud and other property crimes. I have prepared numerous affidavits to support probable cause for search and arrest warrants. Prior to my law enforcement career, I was employed by JP Morgan Chase, where I investigated numerous cases involving financial misconduct, fraud, and money laundering. I have a Bachelor of Science Degree in Finance from New Jersey City University in New Jersey.

INTRODUCTION

2. In conjunction with the United States Department of Justice ("DOJ"), the Naval Criminal Investigative Service ("NCIS"), the Defense Contract Audit Agency ("DCAA"), and colleagues from the DCIS, I have been investigating, among other allegations, fraud and bribery allegations involving LEONARD GLENN Francis ("Francis") and his company, Glenn Defense

Marine Asia (“GDMA”), which acts as a general contractor to the U.S. Navy. As one part of this investigation, agents are examining whether things of value were corruptly given to various U.S. Navy and other government personnel by Francis and GDMA. A total of sixteen named individual defendants have been charged in connection with this investigation. Of those, eleven are current or former U.S. Navy officials, including Admiral Robert Gilbeau; Captain Daniel Dusek; Captain Michael Brooks; Commander Michael Misiewicz; Commander Jose Luis Sanchez; Commander Bobby Pitts; Lt. Commander Todd Malaki; Lt. Commander Gentry Debord; Petty Officer First Class Daniel Layug; Naval Criminal Investigative Service Supervisory Special Agent John Beliveau; and Paul Simpkins, a former DoD civilian employee. The remaining five individuals are associated with GDMA, including Leonard Francis, Neil Peterson, Alex Wisidagama, Linda Raja, and Edmond Aruffo.

3. With the exception of Commander Pitts, Neil Peterson, and Linda Raja, whose cases remaining pending in the Southern District of California, each of the above-named individuals, as well as the GDMA corporate entity, have pled guilty in this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, I respectfully submit that there is probable cause to believe that Francis, a Malaysian citizen who lived in Singapore, MARIO HERRERA (“HERRERA”), a Commander in the United States Navy, and others have conspired to commit bribery, in violation of 18 U.S.C. § 371. Specifically, as set forth below, I respectfully submit that there is probable cause to believe that as of at least November 2008, HERRERA joined an ongoing conspiracy to commit bribery that lasted until at least September 2013, wherein Francis agreed to corruptly give things of value to HERRERA and others, including gifts, hotel stays, elaborate dinners and the services of prostitutes, and in return HERRERA and others agreed to perform official acts on Francis’s

behalf and to violate their official and lawful duties through action and inaction, to wit, by exercising their individual and collective influence within the U.S. Navy to advocate for and advance GDMA's interests, as opportunities arose, by, among other things, transmitting classified information to a person not entitled to receive it; making unauthorized disclosures of proprietary, internal U.S. Navy information; and exerting pressure on other U.S. Navy officials to influence the movement of U.S. Navy ships to ports financially lucrative to Francis.

4. This affidavit is intended to demonstrate that there is probable cause to charge HERRERA and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based upon my training and experience as well as my and members of the investigations' personal observations; review of documents; interviews of witnesses; and review of physical evidence obtained during the course of this investigation. The documents obtained and reviewed include documents from the U.S. Navy submitted by or pertaining to GDMA; emails and email account information from U.S.-based email service providers, emails seized from a computer belonging to Francis, and internal GDMA documents, among others.

BACKGROUND

5. The U.S. Navy was a branch of the U.S. Department of Defense, whose mission was to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. Commander Naval Forces Japan ("CNFJ"), headquartered in Yokosuka, Japan, was the Command of the United States Navy responsible for the management and operation of all U.S. Naval facilities in Japan as well as responsible as the U.S. liaison with the Japan Maritime Self Defense Force. The U.S. Navy port in Yokosuka, Japan was under the control of CNFJ and was the home port for the U.S. Navy 7th Fleet. The U.S. Navy 7th Fleet was the largest U.S. numbered fleet, with 60-70 ships, 200-300 aircraft and

approximately 40,000 Sailors and Marines. The U.S. Navy 7th Fleet area of responsibility (“AOR”) encompassed the Western Pacific Ocean throughout Southeast Asia, Pacific Islands, Australia, and Russia as well as the Indian Ocean territories.

6. The U.S. Navy Naval Supply Systems Command (“NAVSUP”) was a command within the U.S. Navy, which was responsible for the global supply and delivery of goods and services to U.S. Navy personnel and warfighting assets. The U.S. Navy Fleet Logistics Commands (“FLC”), formerly the U.S. Navy Fleet and Industrial Supply Command (FISC) and its predecessor the U.S. Naval Regional Contracting Centers (NRCC), were subordinate commands of NAVSUP located in various domestic and foreign locations. FLCs provided logistics support for naval installations and vessels operating in the FLC’s area of responsibility. The NAVSUP FLCs and their predecessor entities were responsible for soliciting, awarding, and overseeing contracts awarded for goods and services, including ship husbanding, required by the U.S. Navy in each FLC’s area of responsibility. FLC Yokosuka (Japan) supported naval installations and vessels operating in Japan, Hong Kong, South Korea, and Russia. FLC Yokosuka also oversaw the operations of an FLC Detachment in Singapore (“FLC Singapore”), which supported naval installations and vessels operating in Singapore, Malaysia, Indonesia, the Philippines, Thailand, Cambodia, Vietnam, Australia, and elsewhere.

7. GDMA was a multi-national corporation with headquarters in Singapore and operating locations in other countries, including Japan, Singapore, Thailand, Malaysia, Korea, India, Hong Kong, Indonesia, Australia, the Philippines, Sri Lanka, and the United States. GDMA was owned and controlled by Leonard Francis, who was the Chief Executive Officer/President of GDMA, and who oversaw the daily business and operations of the company. Francis was not authorized to receive classified information. According to interviews I have

conducted and evidence I have reviewed, Francis utilized, and in emails was referred to by the following nicknames: "Lion King," "LK," and "Boss," among others. Francis was arrested in San Diego in September 2013, thereby effectively terminating the ongoing conspiracy.

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

9. GDMA has been husbanding vessels for the U.S. Navy for over 25 years under contracts and purchase orders issued by NAVSUP. Between 2004 and 2009, NAVSUP awarded GDMA multiple contracts to provide husbanding services to U.S. ships and submarines at ports throughout Japan, Singapore, Thailand, Malaysia, Korea, India, Hong Kong, Indonesia, Australia, the Philippines, and elsewhere. These contracts were awarded for either a defined period at a specific location or locations or for a single specific port visit by a U.S. Navy ship. Several of these contracts were structured as a first year base value with options for the U.S. Navy to extend performance for up to four additional years.

10. From about March 2007 until about November 2009, HERRERA was assigned to the U.S. Navy 7th Fleet in Yokosuka, Japan, aboard the 7th Fleet Command and Control ship, USS Blue Ridge, during which time he was a Fleet Operations/Schedules Officer. In this capacity, HERRERA had access to current and future port visit schedules by U.S. Navy ships and input into the locations of future port visits in the 7th Fleet AOR. From about November

2009 until about February 2012, HERRERA was assigned to the U.S. Navy CNFJ headquarters in Yokosuka, Japan, during which time he was an Operations Plans and Policy Director, responsible for overseeing CNFJ operations. According to interviews I have conducted and evidence I have reviewed, HERRERA utilized, and in emails was referred to by Francis, and others, by the following nicknames: "Mario," "Chachi," "Choke," "Choke OIC" ("Officer In Charge"), "Choker," "TA," "T.A. Anderson," and "Thomas Anderson." As a Commander in the U.S. Navy, HERRERA was a public official within the meaning of 18 U.S.C. § 201(a), and it was a violation of HERRERA's official and lawful duties: (a) to transmit information that the U.S. Navy had classified as "confidential" or "secret" to any person not entitled to receive it; and (b) to make unauthorized disclosure of proprietary, internal U.S. Navy information.

11. According to interviews conducted with U.S. Navy personnel as well as documents reviewed, information on U.S. Navy ship movements is normally classified as "confidential" or "secret" by the U.S. Navy because unauthorized release of ship movement information could present a security risk to the ship and the U.S. Navy personnel aboard.

12. According to interviews conducted with U.S. Navy personnel as well as documents reviewed, information on U.S. Navy submarine movements is normally classified as "secret" by the U.S. Navy because unauthorized release of submarine movement information could result in a risk to national security and could present a security risk to the submarine and the U.S. Navy personnel operating the submarine.

13. During the time period at issue, Jose Sanchez (charged elsewhere) was a Commander in the U.S. Navy. From about May 2008 to about July 2010, Sanchez was assigned to the U.S. Navy 7th Fleet as the Deputy Assistant Chief of Staff for Logistics (N-4A). From

about July 2010 to about March 2013, Sanchez was assigned to the U.S. Navy NAVSUP FLC in Yokosuka, Japan as the Director of Operations and later the Executive Officer.

13. According to interviews I have conducted and evidence I have reviewed, Sanchez utilized, and in emails was referred to by HERRERA and Francis, among others, by the following nicknames: "J," "Lion King, Jr.," and "Troy Smith."

14. According to interviews I have conducted and evidence I have reviewed, Francis was the subscriber for the email accounts Leonard.Glenn.Francis@gmail.com and Leonard@glenmarinegroup.com. HERRERA was the subscriber to email account chachi09@cooltoad.com as well as a government email account issued by the U.S. Navy. Sanchez was the subscriber for the email accounts navy94@cooltoad.com as well as a government email account issued by the U.S. Navy. Cooltoad.com is a foreign internet service provider ("ISP"), used in this case to circumvent U.S. Navy systems that blocked commercial ISPs, like Gmail, and to avoid detection by law enforcement and U.S. Navy personnel.

PROBABLE CAUSE TO BELIEVE THAT A CRIME HAS BEEN COMMITTED

15. According to two defendants who have pled guilty in this case and who are cooperating with the United States in the hope of receiving a recommendation for a reduced sentence, "CW1" and "CW2," as well as interviews conducted, documents reviewed, and other evidence collected during the investigation, as early as November 2008, HERRERA joined an ongoing conspiracy that continued until September 2013, wherein Francis agreed to corruptly give things of value to HERRERA and others, including gifts, hotel stays, elaborate dinners, and the services of prostitutes, and in return HERRERA and others agreed to perform official acts on Francis's behalf and to violate their official duties through action and inaction, to wit, by exercising their individual and collective influence within the U.S. Navy to advocate for and

advance GDMA's interests, as opportunities arose, by, among other things, transmitting classified information to a person not entitled to receive it; making unauthorized disclosures of proprietary U.S. Navy information; and exerting pressure on other U.S. Navy officials to influence the movement of U.S. Navy ships to and through ports financially lucrative to Francis.

16. According to CW1, Francis routinely received "classified" ship schedules from HERRERA, directly and through Sanchez, while HERRERA was assigned to the 7th Fleet. CW1 advised that after HERRERA left the U.S. Navy 7th Fleet in or about 2009 and went to Commander Naval Forces Japan ("CNFJ"), HERRERA became somewhat less valuable to Francis because HERRERA was unable to provide the information Francis sought.

17. According to CW1, CW2, and other interviews, as well as documents I have reviewed, Sanchez provided classified U.S. Navy ship port visit information -- much of which he obtained from HERRERA -- to Francis via email.

18. On December 2, 2008, for example, Sanchez emailed Francis, attaching a document entitled "Choke OIC Stuff.doc." In the email, Sanchez wrote, "Lion King, here's the information you requested from the Choke OIC attached." Attached was a Microsoft Word document containing the port visit schedules of U.S. and foreign Navy ships participating in the Standing NATO Maritime Group One operation from April 2009 through June 2010 and United Kingdom TAURUS Task Force from May 2009 through July 2009.

19. On December 11, 2008, Francis sent Sanchez an email instructing him to ask "Choke OIC" for the schedules of U.S. Navy ships making port visits in the country of Palau. On the same day, Sanchez responded to Francis, stating, "By the way, did not see much [i]n Palau in the next couple of months, but will let CHOKER provide additional info. I spoke with CHOKER and he was going to stop by later, will give you the update, once I get the info."

20. On February 3, 2009, Francis sent Sanchez an email stating, "I require urgent updates on the following port visits," and identifying eight future port visits by U.S. Navy and U.S. Coast Guard ships. On the same day, Sanchez sent Francis an email providing the requested updated information for five of the eight future visits: "Following updates apply from what I see today. [A]m having Choke OIC verify (will provide update if he sees any changes)." On February 4, 2009, Sanchez sent Francis an email stating, "Latest updates from CHOKE," and detailing the updated port visit schedules for the other three U.S. Navy ship visits and additional information on a U.S. Coast Guard ship visit requested by Francis. Sanchez also included port visit schedules for five U.S. Navy ships not originally requested by Francis.

21. In addition to providing classified ship schedules, HERRERA, Sanchez and others also exercised their individual and collective influence within the U.S. Navy to manipulate the movement of U.S. Navy ships to and through ports financially lucrative to Francis. On February 4, 2009, for example, Francis sent Sanchez an email instructing Sanchez to advise HERRERA to send the USS Lake Champlain to Phuket, Thailand, if its scheduled port visit to Sri Lanka was cancelled. Based on my review of port visits by the USS Lake Champlain, on February 16, 2009, the USS Lake Champlain, in fact, made its planned port visit to Sri Lanka, but also made a subsequent, port visit to Phuket, Thailand, as requested by Francis.

22. On February 11, 2009, Sanchez sent Francis an email stating, "Has [AG, a member of the Royal Australian Navy aboard the USS Blue Ridge] responded to your CV [aircraft carrier] sked [schedule] request? If not I will follow up with CHOKE..." On February 13, 2009, Sanchez sent Francis an email containing the port visit schedules for the USS John C. Stennis, USS Ronald Reagan, USS George Washington, and USS Nimitz.

23. On March 9, 2009, Sanchez sent Francis an email stating, "I'll send you an updated SOE [Schedule of Events for replenishment of U.S. Navy ships at sea] tomorrow and sked info as well from CHOKE." On March 11, 2009, Sanchez sent Francis an email stating, "Lots of sked changes happening...will give an update at the end of the week..." Having received the SOE and the scheduling updates, on March 11, 2009, Francis sent an email to GDMA employees Alex Wisidigama and Neil Peterson with the SOE attached, and on March 20, 2009, Francis sent email to Wisidigama and Peterson entitled, "Updates," with Microsoft Excel spreadsheet listing port visit by U.S. Navy ships from March to September 2009.

24. On March 23, 2009, Sanchez emailed Francis additional port schedules: "The following info is provided from Choke," which detailed the port visit schedules for numerous U.S. Navy ships for the period April 2009 to August 2009. Sanchez stated, "Apologize for the delay in my response...CHOKE was a little slow this week."

25. In April 2009, Francis sent Sanchez an email requesting status verification of the future port visits of seven specific U.S. Navy ships and submarines. On April 28, 2009, Sanchez replied: "Received the following update from CHOKE," and listed the scheduled port visits for the seven U.S. Navy ships as well as five additional U.S. Navy ships in May-June 2009.

26. On July 17, 2009, Francis sent HERRERA an email stating, "Mario, Appreciate ETA and ETD [estimated time of departure] for the upcoming port visit." The request from Francis related to the port visit of the USS Arleigh Burke to Port Louis, Mauritius. On July 18, 2009, Sanchez sent Francis an email providing the requested information: "LK, From Choke: Port Louis – 31 Jul – 3 Aug; Port Est, Reunion 4 Aug – 8 Aug, V/r J."

27. In another instance of HERRERA using his position to exert pressure on and advocate before other U.S. Navy officials to influence ship movements, on July 29, 2009,

Sanchez sent Francis an email reporting, "Choke is pushing for the Reagan [USS Ronald Reagan] to go to Phuket, [Thailand] (looks like this is going to happen)."

28. On August 20, 2009, HERRERA sent Francis an email confirming, "I've just sent a good update to J[ose Sanchez], plus you can now contact me at chachi09@cooltoad.com." On August 21, 2009, Sanchez sent Francis an email stating, "Forwarded updates per your request. Mr. "Choke" Anderson was very helpful." HERRERA's email account, chachi09@cooltoad.com, was copied on this email. Sanchez's email contained an excerpt of an email from Mr. T.A. Anderson [HERRERA] to Mr. Smith [SANCHEZ] and listed future port visits for numerous U.S. Navy ships from September to November 2009.

29. On August 21, 2009, HERRERA emailed Francis stating, "Leonard, Current sked...Hoping Lamut visit goes away for something in Thailand, but not likely, Vr, Choke." The email listed port visits for the USS Blue Ridge for September 12 to November 10, 2009. Sanchez's email account, navy94@cooltoad.com, was copied on this email.

30. On August 25, 2009, HERRERA, based on a previous, undated email request from Francis, provided Francis with an unclassified, internal U.S. Navy "bravo zulu" communication from Rear Admiral Kevin Donegan, Commander, USS George Washington Carrier Strike Group, related to a port visit to Manila, Philippines in August 2009. While, unlike ship schedules, this bravo zulu message was not classified, it was proprietary, internal U.S. Navy information, addressed only to U.S. Government personnel and distributed on a closed U.S. Navy communication network not otherwise accessible to Francis.

31. On August 28, 2009, Francis sent Sanchez an email, copying HERRERA, requesting port visit information on the USS Bonhomme Richard ("BHR") Amphibious Readiness Group ("ARG"), which included the USS Cleveland and the USS Mount Rushmore.

Francis asked if there was any chance of moving the ARG away from Singapore and to Phuket, Thailand. On September 1, 2009, HERRERA responded to Francis, stating, “[W]e are pushing BHR to conduct liberty.... They would rather stay underway. [USS Cleveland and USS Rushmore] are pushing hard to stay in Sgp [Singapore] and skip Phk [Phuket, Thailand]... Its up in the air right now, but I think they will end up in Sgp [Singapore]. We got the RRSB [USS Ronald Reagan Carrier Strike Group] going to Phk [Phuket, Thailand], and I will push for push for [repetition in the original] for NIM [USS Nimitz] on the way back.” On September 16, 2009, Sanchez sent Francis a message over a new Facebook account containing the port visit schedule for the BHR ARG, which Francis forwarded to Wisidagama and Peterson. According to information obtained from the U.S. Navy, the USS Bonhomme Richard, in fact, conducted a port visit in Phuket, Thailand from October 29-November 3, 2009.

32. In addition, according to information obtained from the U.S. Navy on September 22-27, 2009, the USS Ronald Reagan Carrier Strike Group, in fact, conducted a port visit to Phuket, Thailand, at a total cost to the U.S. Navy of \$2,188,938.60.

33. Likewise, according to information obtained from the U.S. Navy, on January 31-February 4, 2010, the USS Nimitz, in fact, conducted a port visit to Phuket, Thailand, at a total cost to the U.S. Navy of \$1,451,980.15.

34. On September 2, 2009, Francis sent Sanchez an email observing, “Choke is coming along with his updates, I need the AOR ship list which is outstanding for my updated records...” One the same day, Sanchez replied, “Will pulse Choke about the AOR ship lists... Choke is definitely stepping up with updates, and will still be engaged from CNFJ.”

35. On September 7, 2009, Francis sent HERRERA and Sanchez an email to their respective cooltoad.com accounts stating, “Mr. Choke, May we have the latest updates for the

Sept and Oct for all Ships, SSN [submarines], CTF73 in the AOR. Do you have any long range plans for visits to India, Maldives, Pacific Islands and Japan....V/r.”

36. On September 8, 2009, Sanchez responded: “LK, Choke did not receive this as well, due to this site [cooltoad] being disallowed onboard. I will pass your request. V/r J.” On September 8, 2009, Sanchez emailed Francis, copying HERRERA, advising that he spoke with HERRERA and that he would pass the requested information once received from HERRERA. Subsequently, on or about September 14, 2009, Sanchez sent Francis a message from a new Facebook account that listed the port visit schedules of various U.S. Navy ships in the Seventh Fleet AOR during the time period September 2009 to September 2010.

37. In return for exercising their individual and collective influence within the U.S. Navy to advocate for and advance GDMA’s interests, as opportunities arose, by, among other things, transmitting classified ship schedule information to Francis; making unauthorized disclosures of proprietary, internal U.S. Navy information; and exerting pressure on other U.S. Navy officials to influence the movement of U.S. Navy ships to ports financially lucrative to Francis, HERRERA and others received a stream of benefits from Francis over the duration of the conspiracy, including gifts, hotel stays, elaborate dinners, and the services of prostitutes.

38. As part of this corrupt stream of benefits, the following things of value, among others, were given by Francis to HERRERA and others:

a. According to CW1 and corroborated by documents I have reviewed, Sanchez, HERRERA, and others were members of the self-christened “Band of Brothers,” a small group of U.S. Navy 7th Fleet officers, who exercised their individual and collective influence within the U.S. Navy to advocate for and advance GDMA’s interests, as opportunities arose, and in return to whom Francis routinely provided things

of value, including gifts, hotel stays, elaborate dinners, and the services of prostitutes, and whatever else the Band of Brothers requested. CW1 stated that Francis provided these things of value at approximately every port visit conducted by the USS Blue Ridge. According to CW1, neither HERRERA nor any other member of the Band of Brothers repaid Francis for any of the things of value provided as part of this arrangement.

b. On November 30, 2008, for example, Francis sent Sanchez an email detailing the aftermath of the previous evening's event with the Band of Brothers in Hong Kong, which involved copious drinking, free hotel rooms, and prostitutes. Francis wrote: "Let's keep the Brothers tight and req[ui]re] the Choke OIC to provide weekly updates and the projected list of USCG, NATO and Canadian names, dates, and ports." According to interviews with CW1 and CW2, among others, it was at this port visit in Hong Kong that HERRERA earned the nickname Choke or Choke OIC, as a result of an encounter with one or more of the prostitutes that Francis provided.

c. On December 29, 2008, Sanchez sent Francis and another GDMA employee an email detailing gifts he provided to U.S. Navy officials on behalf of GDMA. The email reflected that HERRERA received two boxes of steaks, which, according to the GDMA official was worth at least approximately \$900 per box.

d. On February 4, 2009, Sanchez emailed Francis, stating, "Not sure you are aware, but if our dip[lomatic] clearance is not approved by 14 Feb, we could possibly have our Manila port visit cancelled. For the port visit, how does the new det [i.e. prostitutes] look? Any pictures I can share with JD [a fellow U.S. Navy officer and Band of Brothers member] :-)." On February 4, 2009, Francis sent Sanchez an email stating, "We can't allow that to happen [to] my favorite 7FLT LOVE Boat [i.e. USS Blue

Ridge] WILL MAKE THE PORT CALL. Assure ALCON ON 7FLT Staff that I will be in Manila this weekend to resolve the Dipcln issues and talent search!!...”

e. On February 7, 2009, Francis sent Sanchez an email stating, “For Manila, how many cabins required and dates for overnight Passex and Divex?” PASSEX and DIVEX are actual U.S. Navy terms for Passing Exercise and Diving Exercise. According to CW1, as part of this conspiracy however, the terms Passex and Divex were appropriated as shorthand for sexual encounters with prostitutes. Sanchez replied: “For our upcoming Passex and Divex, require 5 cabins... JD, myself, Mario [HERRERA], [MR] and [AM] from 19 Feb – 22 Feb.....” On February 13, 2009, Francis sent Sanchez an email stating, “...working on the Talent Photos, Dipcln [Diplomatic Clearance] to follow on the 14th....” On February 13, 2009, Sanchez sent Francis an email stating, “Can you add another cabin for [AG] he said he will be participating in the Divex and Passex. Lastly, I want to really thank you for getting the dip[lomatic] clear[ance] through... we know you had a lot to do with it...” On February 15, 2009, Francis sent Sanchez an email stating, “...copy all on the Cabins for Manila.....Looking forward to meeting up with the brotherhood in Manila.”

f. On February 15, 2009, Sanchez sent Francis an email stating, “For the cabins, is it the same location as last time?... How’s the new talent? Is Ina, Joyce, or BT gonna be there. I’m fine with BT the entire time, JD is fine with it as well :-)!.” On February 17, 2009, Sanchez sent Francis an email, stating, “...Joveth is beautiful...Same girl in both pictures? Is Joyce knew [sic]?? Wow, unbeli[e]vable... The brothers are ready to indulge.” Based on records reviewed during the investigation, Joyce has been identified as a Filipina prostitute hired by Francis on numerous occasions.

g. On February 23, 2009, Sanchez sent Francis an email entitled, "THANKS" and stated, "LK, A warm thank you from the brotherhood...we thoroughly enjoyed ourselves and had a great time...." Based on my review of information during the investigation, I have confirmed that the USS Blue Ridge, the U.S. Navy ship aboard which HERRERA, Sanchez, and the others were assigned, in fact, conducted a port visit to Manila, Philippines on February 19-23, 2009.

i. On October 16, 2009, Sanchez sent Francis a message using Facebook with the subject "ROOMS" and stating, "Sir, for the KL [Kuala Lumpur, Malaysia] and Singapore, the following group are part of the [W]olf [P]ack :-): -Choke, -Myself, -[MR], [AM], [JK]. As we get near, wouldn't mind to see some pictures for a bit of motivation. Talk with you soon Mr. Lion King!, V/r." Like the Band of Brothers, the "Wolf Pack" was a self-christened group of U.S. Navy 7th Fleet officers, who exercised their individual and collective influence within the U.S. Navy to advocate for and advance GDMA's interests, as opportunities arose, and in return to whom Francis routinely provided things of value, including gifts, hotel stays, elaborate dinners, and the services of prostitutes, and whatever else the Wolf Pack requested. According to information from the U.S. Navy, the USS Blue Ridge, on which HERRERA, Sanchez, and the others were assigned, did visit Port Klang, Malaysia on October 26-29, 2009.

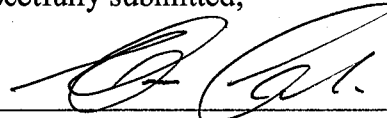
CONCLUSION

39. Based on the foregoing, I respectfully submit that there is probable cause to believe that Francis, MARIO HERRERA, a Commander in the United States Navy, and others conspired to commit bribery, in violation of 18 U.S.C. § 371. Specifically, I respectfully submit that there is probable cause to believe that as early as November 2008, HERRERA joined an ongoing conspiracy that continued until September 2013,

wherein Francis agreed to corruptly give things of value to HERRERA and others, including gifts, hotel stays, elaborate dinners and the services of prostitutes, and in return HERRERA and others agreed to perform official acts on Francis's behalf and to violate their official and lawful duties through action and inaction, to wit, by exercising their individual and collective influence within the U.S. Navy to advocate for and advance GDMA's interests, as opportunities arose, by, among other things, transmitting classified information to a person not entitled to receive it; making unauthorized disclosures of proprietary, internal U.S. Navy information; and exerting pressure on other U.S. Navy officials to influence the movement of U.S. Navy ships to and through ports financially lucrative to Francis; and I further respectfully submit that HERRERA and his conspirators took overt acts in furtherance of the conspiracy.

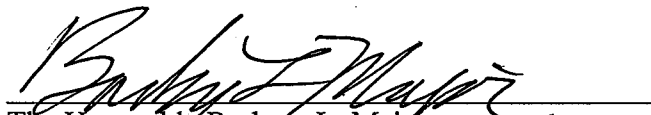
40. I respectfully request that the complaint, affidavit, and arrest warrant be placed under seal until the execution of the arrest, so as to not alert the subject of the arrest warrant or otherwise compromise the ongoing investigation.

Respectfully submitted,



Special Agent Oscar Cunha
Defense Criminal Investigative Service

Subscribed and sworn to before me on February 10, 2017.



The Honorable Barbara L. Major
United States Magistrate Judge