

# **Attachment C**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:
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Plaintiff,	:
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- v -	:
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	:
Real Property Known as Unit 5B	:
Of The Onyx Chelsea Condominium	:
Located at 261 West 28th Street	:
New York, New York 10001-5933	:
	:
Defendant- <i>in-rem</i> .	:
	:
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PROPOSED FIRST AMENDED  
VERIFIED COMPLAINT

10 Civ. 5390 (GBD)

Plaintiff, United States of America, files this Amended  
Complaint for forfeiture against the above-captioned defendant  
property and respectfully alleges the following in accordance  
with Supplemental Rule G(2) of the Supplemental Rules for  
Certain Admiralty or Maritime Claims and Asset Forfeiture  
Actions.

**I. NATURE OF THE ACTION**

1. This is a civil action *in rem* brought by Plaintiff, United  
States of America, by and through the undersigned attorneys, to

enforce the provisions of 18 U.S.C. § 981 and 18 U.S.C. §§ 1956-1957 against the defendant real property, described below.

## II. BASIS FOR FORFEITURE

2. The defendant property is subject to forfeiture under the following provisions:

(a) 18 U.S.C. § 981(a)(1)(A), which provides for the forfeiture of "[a]ny property, real or personal, involved in a transaction or attempted transaction in violation of section 1956, 1957 or 1960 of this title, or any property traceable to such property."

(b) 18 U.S.C. § 981(a)(1)(B), which provides for the forfeiture of the following:

[a]ny property, real or personal, within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation, or any property used to facilitate such an offense, if the offense . . . (i) involves . . . conduct described in section 1956(c)(7)(B); (ii) would be punishable within the jurisdiction of the foreign nation by . . . imprisonment for a term exceeding 1 year; and (iii) would be punishable under the law of the United States by imprisonment for a term exceeding 1 year, if the act or activity constituting the offense had occurred within the jurisdiction of the United States.

Section 1956(c)(7) defines the term "specified unlawful activity." Under 1956(c)(7)(B)(iv), specified unlawful activity includes an offense against a foreign nation, including a

financial transaction occurring in whole or in part in the United States connected to an offense against a foreign nation involving the bribery of a public official.

(c) 18 U.S.C. § 981(a)(1)(C), which provides for the forfeiture of "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to a violation of . . . any offense constituting a 'specified unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense."

3. The above captioned property is subject to forfeiture because, as further set forth herein, it was involved in money laundering and represents the proceeds of a bribery and money laundering scheme conducted by the former president of Taiwan, his family members, and close associates. The defendant property (1) was involved in, constitutes the proceeds of, or is derived from proceeds traceable to violations of 18 U.S.C. § 1956 (money laundering); (2) was involved in, constitutes the proceeds of, or is derived from proceeds traceable to violations of 18 U.S.C. § 1957 (money laundering); or (3) was involved in, constitutes the proceeds of, or is derived from proceeds traceable to financial transactions taking place in the United States that constitute an offense against a foreign nation involving the bribery of a public official, a specified unlawful

activity referred to in 18 U.S.C. § 981 (a)(1)(C) and defined in 18 U.S.C. § 1956(c)(7)(B)(iv). Under 18 U.S.C. §§ 981(a)(1)(A)-(C), property is forfeitable if it constitutes the proceeds of or is traceable to the proceeds of specified unlawful activity or offenses under 18 U.S.C. §§ 1956 or 1957.

**III. THE DEFENDANT IN REM**

4. The defendant property is legally described as follows:

The Condominium Unit ("Unit") known as Unit No. 5B in the building designated by the street address of 261 West 28th Street ("Building") in The Onyx Chelsea Condominium ("Condominium"), Borough of Manhattan, County, City, and State of New York, said Unit being designated and described by the above Unit No. in a certain declaration dated August 16, 2007, made pursuant to Article 9-B of the Real Property Law of the State of New York ("Condominium Act") establishing a plan for condominium ownership of the Building and the Land ("Land") upon which the Building is situate (which Land is more particularly described as; All that certain lot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows: Beginning at the corner formed by the intersection of the northerly side of West 28th Street with the easterly side of Eighth Avenue; Running thence northerly, along the easterly side of Eighth Avenue, a distance of 73 feet 5-1/2 inches to a point; Thence easterly, at right angles to Eighth Avenue, a distance of 103 feet 8-1/4 inches to a point; Thence southerly, along a line forming an interior angle of 91 degrees 00 minutes 50 seconds with the preceding course, a distance of 73 feet 5-3/4 inches to the northerly side of West 28th Street; Thence westerly, along the northerly side of West 28th Street, a distance of 104 feet 11-7/8 inches to the corner aforesaid, the point or place of Beginning), which declaration was recorded in the Office of the Register of the City of New York, County of New York

("Register's Office") on October 15, 2007, under CRFN #2007000521004 ("Declaration"). The Unit is also designated as Tax Lot 1019 in block 778 of Section 3 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of The City of New York and on the Floor Plans of the Building, certified by FXFOWLES Architects, PC and filed with the Real Property Assessment Department of The City of New York on October 5, 2007, as Condominium Plan No. 1795 and also filed in the Register's Office on October 15, 2007, as Condominium Map No. CRFN #2007000521005.

5. The defendant property is owned by a New York limited liability company, West 28th Street LLC. West 28th Street LLC is owned by a British Virgin Island company, Avallo Ltd. HUANG, Jui-Ching, is the beneficial owner and director of Avallo Ltd. HUANG, Jui-Ching, is the daughter-in-law of the former president of Taiwan, CHEN, Shui-Bian and the spouse of CHEN, Chi-Chung, CHEN, Shui-Bian's son. Avallo Ltd. is held in trust by the Knight Square Irrevocable Trust, an Island of Nevis trust, with a British Virgin Islands Company, Global Fiduciaries Limited, as trustee. HUANG, Jui-Ching is beneficiary of the Knight Square Irrevocable Trust.

6. The defendant property is located within this district and within the jurisdiction of the Court. In full compliance with 18 U.S.C. § 985(b)(1) and (c)(1), Supplemental Rule G(4), and Local Admiralty Rules C.2 and C.3 : the United States has

a. posted notice of this action and a copy of the Original Complaint on the defendant real property; and

- b. served notice of this action on the defendant real property owner, and any other person or entity who may claim an interest in the defendant, along with a copy of the Original Complaint; and
- c. filed a *lis pendens* in county records of the defendant real property's status as a defendant in this *in rem* action; and
- d. appraised the defendant real property; and
- e. published notice of action as required by statute and applicable rules.

#### IV. JURISDICTION AND VENUE

- 7. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1345 (district courts have original jurisdiction of all civil cases commenced by the United States) and § 1355(a) (district courts have original jurisdiction of any action for forfeiture).
- 8. Venue is established by virtue of 28 U.S.C. §§ 1355(b), 1391(b), and 1395.
- 9. This civil action, *in rem*, for forfeiture is governed by Title 18, United States Code, Sections 981 and 983, and Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

## V. FACTS

10. The former president of Taiwan, CHEN, Shui-Bian; former first lady of Taiwan, WU, Sue-Jen; their son CHEN, Chih-Chung; CHEN, Chih-Chung's wife, HUANG, Jui-Ching; and several collaborators were indicted in December 2009 by the Taiwan Special Prosecutor's Office for crimes involving corruption and money laundering. See *Republic of China (Taiwan) v. CHEN, Shui-Bian, et al.*, Original Bill of Indictment, Special Investigation Division, Supreme Prosecutors Office, No. 0197400006 (Dec. 24, 2009, Taipei D. Ct.). (hereinafter the "Indictment"). Former President CHEN, Shui-Bian is a public official under Article 2 of Taiwan Anti-Corruption Statute. The indictment includes charges that former president CHEN, Shui-Bian and his wife WU, Sue-Jen received millions of dollars in bribe payments in violation of Article 5 of Taiwan's Anti-Corruption Statute, and laundered the illicit funds that had been held in vaults at Cathay United Bank in Taiwan in violation of Article 11.1 of Taiwan's Money Laundering Control Act.<sup>1</sup> The indictment also charged that the son and daughter-in-law of the former first family, CHEN, Chih-Chung and HUANG, Jui-Ching, Yuanta Securities

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<sup>1</sup> Taiwan amended its Money Laundering Control Act in 2007. CHEN, Shui-Bian and WU, Sue-Jen's indictments related to the money in the vaults at Cathay United Bank were charged under the prior version of the Act that were in effect at the time of their offenses.

Co. Ltd general manager MA, Wei-Chien Victor and director TU, Li-Ping had laundered funds on behalf of the first couple in violation of Article 11.2 of Taiwan's Money Laundering Control Act. Prior indictments led to convictions of CHEN, Shui-Bian ("former President CHEN") and WU, Sue-Jen ("former first lady WU") for embezzlement, bribery and money laundering, as well as money laundering convictions for several other members of the former first family and family associates.<sup>2</sup> On November 5, 2010, the Taiwan Taipei Court issued an opinion finding former President CHEN; first lady WU; their son, CHEN, Chih-Chung; CHEN, Chih-Chung's wife, HUANG, Jui-Ching and others<sup>3</sup> not guilty of the charges set forth in the December 24, 2009 indictment. Taiwanese prosecutors have appealed the trial court ruling to the Taiwan High Court, the Taiwan appellate court which reviews *de novo* of an order or ruling from the district court. The

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<sup>2</sup> On September 11, 2009, CHEN, Shui-Bian and WU, Sue-Jen were sentenced to life in prison in the Taiwan trial court, a sentence which was reduced by the Taiwan High Court and the Supreme Court. They are currently serving 17 year and 6 months and 19 years sentences respectively. In addition, WU, Sue-Jen had previously pled guilty to other money laundering and forgery charges and has been convicted of perjury for asking her children to lie in court.

<sup>3</sup> Other defendants who were acquitted include Yuanta Securities Co. Ltd general manager MA, Wei-Chien Victor, and director TU, Li-Ping.

trial court decision is presently pending in the Taiwan appellate court.

11. In 2004 and 2006, Yuanta Securities Co. Ltd. ("YSC"), a firm owned by the MA family, was attempting to increase its ownership share of Fuhwa Financial Holding Company Limited ("FFHC"). Former first lady WU told Taiwanese prosecutors that YSC and its two competitors in the acquisition, the opposition political party Koumintang ("KMT") and KOO, John-Ynn, all invested a large amount of money fighting for control of FFHC. YSC paid a bribe of two hundred million New Taiwan dollars (NTD 200 million, equivalent to approximately \$6 million USD) to former first lady, WU to ensure that the government would not oppose its attempted acquisition of FFHC.

12. In sworn statements given to Taiwan Prosecutors, MA, Wei-Chen<sup>4</sup>, the chief executive officer of YSC ("YSC CEO MA, Michael), stated that he asked YSC director TU, Li-Ping ("YSC director TU") to speak with former first lady WU about securing the government's action to not intervene in YSC's acquisition of FFHC. YSC CEO MA, Michael stated that it was common knowledge that if government "help" was needed in such transactions, "one

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<sup>4</sup>According to US passport system records, MA, Wei-Chen (aka, Michael Wei Chen MA) is a United States citizen with a U.S. passport number 452008678.

must get consent from Madam," meaning the consent of former first lady WU.

13. In a sworn statement to Taiwanese Prosecutors, YSC CEO MA, Michael further stated that after YSC director TU met with former first lady WU, TU advised YSC CEO MA, Michael that "according to the on-going rate," they should send NTD 200 million to the official residence of President CHEN of Taiwan. YSC CEO MA, Michael stated that several individuals delivered this cash to the official residence in five or six fruit boxes. YSC director TU described her meeting with former first lady WU to Taiwanese prosecutors, including a description of the following payment of NTD 200 million in cash and that the money was delivered to the official residence of President CHEN in the fruit boxes. YSC director TU characterized this payment as a "political contribution."

14. Such a "political contribution" made to former first lady WU was in exchange for the government's "help" not to object to YSC's attempted and planned acquisition of FFHC.

15. The Minister of Finance during the period of the alleged bribe payments was LIN, Chuen ("then-Minister LIN"), an appointee of former President CHEN. In Taiwan, authority in deciding and regulating mergers and acquisitions among financial institutions lays in the Ministry of Finance.

16. To effect the quid pro quo for YSC's payment to former President CHEN's wife, former President CHEN used his close aide, MA, Yung-Chen, as a conduit to convey a message to then-Finance Minister LIN, who was appointed by former President CHEN, to support YSC's attempted acquisition with FFHC.

17. MA, Yung-Chen stated to Taiwanese prosecutors that he would not have called the then Minister LIN in regards to the YSC acquisition matter on his own volition since he was not familiar with YSC. MA, Yung-Chen stated that he would call then-Minister LIN only because he had been given instruction by former President CHEN or former first lady WU.

18. Both MA, Yung-Chen and the-Minister LIN told Taiwanese Prosecutors that MA, Yung-Chen had called LIN several times to express former President CHEN's support for the YSC's attempted merger with FFHC and to ascertain the status of the request.

19. MA, Yung-Chen also told Taiwanese prosecutors how he would handle matters requested by former first lady WU where such matters concerned other governmental offices' decision making process. MA, Yung-Chen stated that he would and could not neglect an inquiry or request from former first lady WU on those matters. However, he would first report them to former President CHEN; once cleared by former President CHEN, he would act upon only former President CHEN's instructions.

20. Given his close relationship with former President CHEN and first lady WU, MA, Yung-Chen was questioned by Taiwanese Prosecutors whether former President CHEN knew that former first lady WU had accepted money from companies during CHEN's presidential terms. MA, Yung-Chen responded to this question saying that it would be impossible for former President CHEN not to know that former first lady WU was accepting money from companies given that the former first couple were very close and former President CHEN would share his ups and downs along the way in his political career with his wife, former first lady WU. He further stated, as a staff member working in the office of the President, that even he himself had heard about the former first lady's receipt of money from companies.

21. Former first lady WU has admitted to Taiwanese prosecutors that she received several cash "political contributions" given on behalf of numerous Taiwan corporations at the official residence of the President of Taiwan after the 2004 Taiwan Presidential election. According to former first lady WU's statements, these cash "political contributions" totaled approximately NTD 540 million (about \$17 million USD).

22. Former first lady WU further told Taiwanese prosecutors that cash received as for the "elections," including the NTD 200 million received from YSC, was initially maintained in a large

vault room at the Cathay United Bank, Taipei, Taiwan, but was moved to a smaller vault room at the same bank after the election because there was less cash.

23. The Chairman of the Cathay United Bank LEE, Ming-Hsien, told Taiwanese prosecutors that former first lady WU had contacted him by telephone, stating that she was sending her sister-in-law, WU-CHEN, Chun-Ying, to Cathay United Bank to lease a vault room; the lease was to be in WU-CHEN, Chun-Ying's name. Chairman LEE, Ming-Hsien further stated that former first lady WU "required me to keep the vault lease confidential." Chairman LEE, Ming-Hsien has provided Taiwanese prosecutors with copies of the Lease Agreement and the Registration Card between Cathay United Bank and the former first lady's sister-in-law WU-CHEN, Chun-Ying, reflecting that on May 3, 2003, WU-CHEN, Chun-Ying leased a large vault room and that on April 26, 2006, she renewed the lease for a smaller vault room.

24. The former first lady's sister-in-law WU-CHEN, Chun-Ying confirmed that she acquired the vault leases in her own name, claiming to Taiwanese prosecutors that she had done so at the request of former first lady WU, and that she had given the key and vehicle access card to former first lady WU.

25. CHEN, Chen-Hui, the Cashier in the Office of the President of Taiwan, has provided a sworn statement to Taiwanese

prosecutors saying that, under the instruction of former first lady WU, she would be given the vault key and access card and would then deliver the cash "donations" to a vault room at the Cathay United Bank leased in the name of WU-CHEN, Chun-Ying. Cashier CHEN, Chen-Hui stated that each time she went to the vault, she was required to count the total amount of cash stored there and report it to former first lady WU. The largest amount she could recall was in excess of NTD 1.1 billion (\$34.38 million USD).

26. CHEN, Chih-Chung, son of the former President and the former first lady of Taiwan, has told Taiwanese prosecutors that his mother, former first lady WU, had advised him that the vault room at the Cathay United Bank at one time contained approximately NTD 1.1 billion cash, some of which was from the same sources his mother named as making cash "political contributions." CHEN, Chih-Chung stated that after the 2004 Taiwan Presidential election, approximately NTD 740 million cash was moved from the vault room at the Cathay United Bank to the residence of MA, Wei-Chien, YSC's general manager and the brother of YSC CEO MA, Wei-Chen.

27. Former first lady WU stated to Taiwanese prosecutors that, after the 2004 Taiwan Presidential election, she asked YSC director TU to find another location to store the cash in the

Cathay United Bank vault room because several persons had learned about the money and its location.

28. In YSC's director TU's sworn statement to Taiwanese prosecutors, she stated that she informed former first lady WU that YSC General Manager MA, Wei-Chien ("YSC GM MA, Victor")<sup>5</sup> had a very large storage vault in the basement of his residence; it was decided to move the cash to YSC GM MA, Victor's residence. Former first lady WU stated that she asked her brother, WU, Ching-Mao; her nephew, WU, Wen-Ching; her sister-in-law, WU-CHEN, Chun-Ying; and YSC director TU to move the cash to MA, Victor's basement.

29. In independent sworn statements, YSC director TU; WU, Ching-Mao; and YSC GM MA, Victor, have all described to Taiwanese Prosecutors how they participated in moving several suitcases of cash from the vault room at Cathay United Bank to MA, Victor's basement. MA, Victor stated that the move involved seven suitcases of cash; TU and MA, Victor both stated that the total amount transported was NTD 740 million (approximately \$23.1 million US), and WU, Ching-Mao states that the amount was over NTD 700 million.

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<sup>5</sup>U.S. passport system records also confirm that MA, Wei-Chien (aka, Victor Wei-Chien MA) is a United States citizen with a U.S. passport number 710427161.

30. During the trial of *Republic of China (Taiwan) v. CHEN, Shui-Bian, et al.*, Original Bill of Indictment, Special Investigation Division, Supreme Prosecutors Office, No. 0197400006 (Dec. 24, 2009, Taipei D. Ct.), both MA, Victor and TU asked the court to allow them to proceed with guilty plea negotiations with the Taiwan prosecution. However, the Taiwanese prosecutor rejected TU's and MA, Victor's requests to plea guilty. The aforementioned Taiwan trial court opinion dated November 5, 2010 from which Taiwanese prosecutors appealed which is presently pending at the Taiwan High Court acquitted MA, Victor and TU of money laundering charges in addition to the former first family.

31. In statements given to Taiwan Prosecutors, YSC GM MA, Victor stated that, after having stored cash for the former first lady for several months, YSC director TU, relayed instructions to him from former first lady WU directing him to place the cash in the banking system because she feared that the money could be traced to MA, Victor's basement. Former first lady WU also indicated that she wanted to make overseas investments and asked MA, Victor to send NTD 540 million overseas for investment while leaving NTD 200 million in an account in Taiwan. Former first lady WU requested that MA, Victor wire the NTD 540 million directly to his foreign

accounts. YSC GM MA, Victor was uncomfortable with commingling the funds he was storing for the former first lady with his own. MA, Victor told Taiwanese prosecutors that, as he had existing foreign funds overseas and had concerns about being investigated if he personally wired money back to Taiwan, he decided that, rather than wire the funds out of Taiwan, he would exchange funds in his accounts outside of Taiwan for the cash located in his basement. To accomplish this exchange, YSC GM MA, Victor would transfer funds from his overseas accounts to an account established for former first lady WU and then deposit the cash that had been stored in his house to his accounts in Taiwan. Accordingly, MA, Victor established Asian Piston Investment Limited, a British Virgin Islands company, for former first lady WU, listing himself, his mother, and YSC director TU as officers and/or directors. YSC GM MA, Victor then opened a bank account in the name of Asian Piston Investment Limited at the EFG Private Bank, Hong Kong (hereinafter the "Asian Piston Account"). MA, Victor initially moved an amount<sup>6</sup> approximately equal to NTD 240 million (approximately \$7.54 million USD) from his EFG Bank account located in Hong Kong in the name of New Atlantic Holdings, to the Asian Piston Account. MA, Victor then

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<sup>6</sup> In MA's statements to Taiwanese prosecutors, he claimed that this initial transfer was of bonds which were later converted to currency.

completed the exchange by recouping the funds from his basement and arranging for daily cash deposits of approximately NTD 20 million each into several accounts he owned or controlled in Taiwan.

32. According to YSC GM MA, Victor, several months later, before he had been able to transfer a total of NTD 540 million as former first lady WU directed, YSC director TU told him that former first lady WU wanted \$10 million USD immediately deposited into an account at Wegelin & Company Private Bankers in Switzerland in the name of Avallo Ltd. However, the Asian Piston Account lacked sufficient funds to make the transfer at that time. Therefore, on or about July 12, 2007, MA, Victor again effected an exchange and transferred \$10 million USD, an amount equivalent at the time to NTD 328 million, directly from his New Atlantic Holdings account at EFG Bank in Hong Kong to the Avallo Ltd. account at Wegelin & Company Private Bankers in Switzerland (hereinafter the "Avallo Account"), an account over which CHEN, Chih-Chung, son of former President CHEN and former first lady WU, had the sole signature authority. In August of 2007, MA, Victor again received instructions from former first lady WU through YSC director TU, this time asking him to transfer the balance of the Asian Piston Account to the Avallo Account. By early September 2007, MA, Victor had transferred

approximately \$7.57 million USD from the Asian Piston Account to the Avallo Account. Thus, the funds that had been stored in YSC GM MA, Victor's basement for former first lady WU were later transmitted into accounts established for first lady WU located outside of Taiwan. Specifically, between July and September 2007, these funds were moved from MA, Victor's New Atlantic Holdings account in Hong Kong to the Hong Kong Asian Piston Account. These funds, approximately \$17.5 million USD, then were wired to the Avallo Account over which the former president and first lady's son, CHEN, Chih-Chung had sole control. The wire transfers of these U.S. dollars from the New Atlantic Holdings account and the Asian Piston Account at EFG Bank in Hong Kong to the Avallo Ltd. account at Wegelin & Company Private Bankers in Switzerland cleared through U.S. banks in the United States.

33. Avallo Ltd. is a British Virgin Islands (BVI) shell company. It was incorporated on May 8, 2007, and has BVI company number 1403059. According to Avallo's official corporate records, HUANG, Jui-Ching, CHEN, Chih-Chung's wife and the daughter-in-law of the former president CHEN and first lady WU, is the sole director and the declared beneficial owner of Avallo Ltd. However, CHEN, Chih-Chung has sole signatory authority over the Avallo, Ltd. bank account, which is held at

Wegelin & Co. Private Bankers in Switzerland. Neither CHEN, Chih-Chung nor HUANG, Jui-Ching was a bona fide purchaser or seller for value of the \$17.5 million USD transferred to the accounts that they controlled.

34. Bravo International Holdings Ltd. is an Island of Nevis business company. Bravo International Holdings has a bank account at Wegelin & Company Private Bankers (hereinafter the "Bravo Account"). CHEN, Chih-Chung is the beneficial owner of Bravo International Holdings and has sole signature authority over the Bravo Account.

35. Bank records indicate that on or about December 19, 2007, a transfer of \$17,500,000.00 USD was made from the Avallo Account to the Bravo Account. Bank records also indicate that during May and June of 2008, two transfers totaling \$2,075,009.71 were made from the Bravo Account in Switzerland to the trust account of the Law Offices of Mitchell S. Polansky, Esq. at Wachovia Bank, Miami, Florida, United States. (hereinafter "Attorney Polansky's Trust Account"). Mitchell S. Polansky is an attorney working for Seuss & Partners, LLC in Miami, Florida. CHEN, Chih-Chung, son of former president CHEN and first lady WU of Taiwan, had sole signature authority over the Bravo and Avallo accounts.

36. CHEN, Chih-Chung confessed to Taiwanese prosecutors that he knew that after NTD 740 million (approximately \$23 million USD) in cash was moved from the Cathay United bank vault to YSC GM MA, Victor's basement, and an amount equivalent to approximately \$17,000,000.00 USD was deposited into the Avallo and Bravo Accounts. CHEN, Chih-Chung further admitted that a portion of the \$17,000,000.00 was used to purchase real estate in Virginia and New York including the defendant property the United States is seeking forfeiture.

37. When he required assistance in acquiring real estate in May, 2007, CHEN, Chih-Chung was introduced to Stefan Walter Rasso Seuss ("Seuss"), a director of Seuss & Partners, LLC. Seuss stated that he was advised that the funds held in the Bravo and Avallo Accounts were from funds belonging to former first lady WU. Seuss has further stated that in the spring of 2008, CHEN, Chih-Chung and his wife, HUANG, Jui-Ching instructed him that they wanted to purchase real estate in New York and Virginia while concealing their ownership in the properties. Seuss stated that under such an instruction, in order to conceal CHEN, Chih-Chung and HUANG, Jui-Ching's ownership in the defendant property, he created West 28th Street LLC for the purpose of purchasing and managing the defendant property. The West 28th Street LLC is wholly owned by Avallo Ltd. of which

CHEN, Chih-Chung's wife, HUANG, Jui-Ching is the sole director and the declared beneficial owner. CHEN, Chih-Chung wire transferred funds from his Bravo Account in Switzerland to the United States and directed Stefan Seuss to conduct financial transactions in the United States to pay fees incurred in relation to incorporation and registration of the West 28th Street LLC in New York. After CHEN, Chih-Chung and Huang, Jui-Ching selected the real properties in Virginia and New York to be purchased, CHEN, Chih-Chung wire transferred funds from his Bravo Account in Switzerland to Attorney Polansky's Trust Account at Wachovia Bank in Miami. Using the funds from Attorney Polansky's Trust Account, the defendant property, which was offered for sale by Starr Associates, was ultimately purchased on May 29, 2008 in the name of West 28th Street LLC for \$1,575,000.00.

#### **VI. REQUEST FOR RELIEF**

38. As outlined in paragraphs 10-37, the funds used to purchase the defendant real property can be traced back through the Bravo and Avallo Accounts in Switzerland through the Asian Piston and New Atlantic Holdings Accounts in Hong Kong managed by YSC GM MA, Victor to the cash paid as a bribe by YSC CEO MA, Michael to former first lady WU in exchange for former president CHEN's

support of an acquisition between two financial institutions in Taiwan.

39. Therefore, the defendant property should be forfeited to the United States because a preponderance of the evidence shows the following:

First Claim

40. The Plaintiff repeats the allegations in paragraphs 1 through 39 as if fully set forth herein.

41. The defendant property is subject to forfeiture under 18 U.S.C. § 981(a)(1)(A) because the defendant property was involved in a transaction or attempted transaction in a violation of 18 U.S.C. § 1956(a)(1)(B)(i). Section 1956(a)(1)(B)(i) makes it a crime if any one 1) conducts or attempts to conduct a financial transaction; 2) with the knowledge that the property involved in such a financial transaction represents the proceeds of some form of unlawful activity; 3) the financial transaction in fact involves the proceeds of specified unlawful activity (hereinafter the "SUA") as defined in § 1956(c)(7)(B); and 4) knowing that the financial transaction is designed to conceal or disguise either the nature, the location, the source, the ownership, or the control of the proceeds of SUA. "SUA", as defined in Section 1956(c)(7)(B)(iv), with respect to a financial transaction

occurring in whole or in part in the United States, is "an offense against a foreign nation" involving bribery of a public official. The term financial transaction, as defined in Section 1956(c)(4), is a transaction (A) which in any way or degree affects interstate or foreign commerce "(i) involving the movement of funds by wire or other means. . . or (iii) involving the transfer of title to any real property. . . or (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree."

42. Cash bribe payments were delivered to the presidential palace to the attention of former first lady WU by YSC in exchange for the government's action to not oppose YSC's attempted acquisition of FFHC, another financial institution. Former President CHEN, a public official, took the action desired by YSC by instructing his close aide, MA, Yung-Chen to convey messages in favor of YSC's desired acquisition to then Finance Minister LIN, Chuen who oversaw mergers and acquisitions among financial institutions and who was a former President CHEN appointee. Such conduct by former President CHEN, a public official, and former first lady WU, who aided and abetted in the scheme, violated Taiwan's Anti-Corruption Statute Article 5, and thereby is an offense against Taiwan and qualifies as SUA under

Section 1956(c)(7)(B)(iv). The defendant property was purchased with proceeds traceable to the bribe payments transferred to Attorney Polansky's Trust Account in the United States from CHEN, Chih-Chung's Bravo Account in Switzerland. Under former first lady WU's instruction, MA, Victor placed the bribe payments made by YSC in the international banking system by exchanging the funds from his EFG account in Hong Kong for the cash stored in the bank vault and then moved and concealed in his basement. Specifically, former first lady WU directed MA, Victor to wire the funds traceable to the bribe payments in the amount of \$17.5 million in US Dollars on deposit in Hong Kong to CHEN, Chih-Chung's Avallo Account in Switzerland. These U.S. dollar-denominated transactions, that were cleared through U.S. financial institutions which are engaged in or whose activities affect interstate commerce, constitute financial transactions under §1956(c)(4)(B). Former first lady WU knew that the money involved in the aforementioned international transaction represented bribe proceeds paid by YSC. These transactions to move the money from the bank vault to MA, Victor's basement to Hong Kong to accounts in Switzerland under her son's control were directed by former first lady WU in order to conceal either the illicit source and nature or original and location of the funds. In addition, the purchase of the defendant property

which involved transfer of title to real property is a financial transaction as defined under §1956(c)(4)(iii). The wire transfer of funds by CHEN, Chih-Chung from Switzerland to Attorney Polansky's Trust Account at Wachovia in the United States also constitutes a financial transaction under Section 1956(c)(4)(i) and (B). For the express purpose of concealing their ownership interest in the defendant property, CHEN, Chih-Chung and his wife, HUANG, Jui-Ching instructed and compensated Seuss to set up a New York LLC - West 28th Street LLC - as the holder of title to the defendant property which in turn is wholly owned by Avallo Ltd, a BVI company, which in turn is held by an Island of Nevis trust with the sole beneficiary as CHEN, Chih-Chung's wife, HUANG, Jui-Ching. CHEN, Chih-Chung also conducted financial transactions by paying fees for the New York LLC' incorporation and registration from his Swiss bank account. CHEN, Chi-Chung, a law school graduate, knew that the funds transferred to his account in Switzerland, for which he was not a bona fide purchaser or seller for value, were traceable to the money from the vault, and he knew or should have known that the money represented the proceeds of some form of unlawful activity. As such, the defendant property is traceable to and involved in a transaction in violation of § 1956(a)(1)(B)(i) and thus is forfeitable pursuant to 18 U.S.C. § 981(a)(1)(A).

Second Claim

43. The Plaintiff repeats the allegations in paragraphs 1 through 42 as if fully set forth herein.

44. The defendant property is subject to forfeiture under 18 U.S.C. § 981(a)(1)(A) because the defendant property is involved in a transaction or an attempted transaction in violation of 18 U.S.C. § 1956(a)(2)(B)(i). Section 1956(a)(2)(B)(i) makes it a crime if any one 1) moves or attempts to move from the United States to or through a place outside the United States, or to the United States from or through a place outside the United States 2) a monetary instrument or funds; 3) with knowledge that the monetary instrument or funds involved in the movement represent the proceeds of some form of unlawful activity; and 4) with knowledge that such movement is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of SUA, as defined in §1956(c)(7). "SUA", as defined in Section 1956(c)(7)(B)(iv), with respect to a financial transaction occurring in whole or in part in the United States, is "an offense against a foreign nation" involving bribery of a public official.

45. The defendant property is traceable to a transaction in violation of 18 U.S.C. §1956(a)(2)(B) because as described

above, the funds used to purchase the defendant property were transmitted to a place in the United States, from or through a place outside the United States in that the transfers from Hong Kong to Switzerland, which wire transfers cleared through financial institutions in the United States, were directed by former first lady WU with the knowledge that the transaction represented the proceeds of some form of unlawful activity and that the transfer was designed in whole or in part to conceal or disguise either the nature, the location, the source, the ownership, or the control of bribe proceeds derived in violation of Taiwan's Anti-Corruption Statute Article 5. Furthermore, the wire transfer directed by CHEN, Chih-Chung from his Bravo Account in Switzerland, a place outside the United States, to Attorney Polansky's Trust Account at Wachovia in the United States, was made with the knowledge that the transfer represented the proceeds of some form of unlawful activity and that the transfer was designed in whole or in part to conceal or disguise either the nature, the location, the source, the ownership, or the control of bribe proceeds derived in violation of Taiwan's Anti-Corruption Statute Article 5. The defendant property is forfeitable because of violation of any subsection of 18 U.S.C. §1956(a)(2)(B)(i) subjects all property involved in

or traceable to such property to forfeiture under 18 U.S.C. §981(a)(1)(A).

Third Claim

46. The Plaintiff repeats the allegations in paragraphs 1 through 45 as if fully set forth herein.

47. The defendant property is subject to forfeiture under 18 U.S.C. § 981(a)(1)(A) because the defendant property involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1957(a). Section 1957(a) makes it a crime if any one 1) knowingly engages, or attempts to engage, in a monetary transaction 2) with proceeds of a SUA 3) in an amount greater than \$10,000. "SUA", as defined in Section 1956(c)(7)(B)(iv), with respect to a financial transaction occurring in whole or in part in the United States, is "an offense against a foreign nation" involving bribery of a public official. Monetary transaction, as defined in Section 1957(f)(1) means "deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds . . . by, through, or to a financial institution including any transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree"

48. The defendant property was purchased with such SUA proceeds, bribe proceeds derived in violation of Taiwan's Anti-Corruption Statute Article 5, an SUA under Section 1956(c)(7)(B)(iv). The wire transfers of USD \$17.5 million in SUA proceeds from Hong Kong to Switzerland through financial institutions in the United States are monetary transactions that exceed \$10,000 as required by §1957(a). Furthermore, CHEN, Chih-Chung, during May and June 2008, conducted monetary transactions in transferring \$2,075,009.71 in two separate wires from his Bravo Account at Wegelin & Company Private Bankers in Switzerland to Attorney Polansky's Trust Account at Wachovia Bank in the United States, both of which exceed \$10,000 as required by §1957(a). The purchase of the defendant property in the amount of \$1,575,000.00 from Attorney Polansky's Trust Account at Wachovia Bank in the United States is a monetary transaction that exceeds \$10,000 as required by §1957(a). A violation of any subsection of 18 U.S.C. §1957 subjects all property involved in the transaction to forfeiture under 18 U.S.C. §981(a)(1)(A). As such, the defendant property is forfeitable pursuant to 18 U.S.C. §981(a)(1)(A).

Fourth Claim

49. The Plaintiff repeats the allegations in paragraphs 1 through 48 as if fully set forth herein.

50. The defendant property is subject to forfeiture under 18 U.S.C. § 981(a)(1)(B). It provides that any property, real or person, within the jurisdiction of the United States, would be forfeitable if 1) such property is traceable to any proceeds from an offense against a foreign nation involving the conduct described in Section 1956(c)(7)(B); 2) the foreign offense would be punishable within that jurisdiction of the foreign nation by imprisonment for a term exceeding a year; and 3) if the foreign conduct had occurred within the United States, it would be punishable under the U.S. laws by imprisonment for a term exceeding a year.

51. The defendant property is subject to forfeiture under 18 U.S.C. §981(a)(1)(B) because it is traceable to bribe obtained from a violation of Taiwan's Anti-Corruption Statute Article 5, an SUA under Section 1956(c)(7)(B)(iv) and the offense would be punishable by imprisonment by more than one year in both Taiwan and the United States had the offense occurred in the United States. Violations Article 5 of the Taiwan Anti-Corruption Statute carry a term of imprisonment of no less than seven years in Taiwan. Had former President CHEN and first lady WU's conduct occurred in the United States, it would constitute a

violation of the federal bribery statute 18 U.S.C. §201(b)(2)(C)<sup>7</sup> for which a fine or a term of imprisonment not more than fifteen years or both could be imposed. See 18 U.S.C. §201(b)(4). The federal bribery statute, 18 U.S.C. §201(b)(2)(C) criminalizes the conduct of a public official, as defined under §201(a), where such a public official seeks, receives or accepts anything of value personally in return for "being influenced to do or omit to do any act in violation of the such official duty". Under U.S. Federal bribery laws, as in Taiwan, payments to a public official's wife or other third party will not negate the offense of bribery. Former President CHEN would qualify as a public official under the definition of 18 U.S.C. §201(a). The former first lady WU accepted NTD 200 million from YSC CEO MA, Michael in return for the government's action to refrain from opposing YSC's attempted acquisition of FFHC. Former President CHEN instructed his close aide, MA, Yung-Chen to convey messages in favor of YSC's attempted acquisition, to his appointee, then-Finance Minister LIN, Chuen, who oversaw mergers and acquisitions among financial institutions.

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<sup>7</sup> A violation of 18 U.S.C. §201 is most analogous to Taiwan's Anti-Corruption Statute and satisfies the elements under 18 U.S.C. §981(a)(1)(B). However, if former President CHEN and former first lady WU's conduct had occurred in the United States, it could give rise to additional violations of other federal criminal laws.

52. Therefore, the defendant property is forfeitable under 18 U.S.C. §981(a)(1)(B) because it is traceable to the proceeds of an offense against Taiwan that would be punishable by imprisonment of more than one year in both Taiwan under Article 5 of Taiwan Anti-Corruption Statute and in the United States under 18 U.S.C. §201 had the crime occurred in the United States.

Fifth Claim

53. The Plaintiff repeats the allegations in paragraphs 1 through 52 as if fully set forth herein.

54. The defendant property is subject to forfeiture under 18 U.S.C. § 981(a)(1)(C) because it is traceable to the proceeds of SUA as defined in 18 U.S.C. § 1956(c)(7). "SUA", as defined in Section 1956(c)(7)(B)(iv), with respect to a financial transaction occurring in whole or in part in the United States, is "an offense against a foreign nation" involving bribery of a public official.

55. The defendant property is traceable to bribe proceeds derived in violation of Taiwan Anti-Corruption Statute Article 5, an SUA under Section 1956(c)(7)(B)(iv). As such, the defendant property is therefore forfeitable because any property that constitutes or is derived from proceeds traceable to any

offense defined as specified unlawful activity under §1956(c)(7) and is forfeitable under 18 U.S.C. §981(a)(1)(c).

WHEREFORE, Plaintiff requests as follows:

- (1) That a Judgment of Forfeiture be entered declaring the defendant real property forfeited to the United States of America for disposition according to law and that, pursuant to 18 U.S.C. § 981(f), all right, title, and interest in the defendant real property vested in the United States upon the commission of the first act giving rise to forfeiture; and
- (2) That the United States of America be granted such other relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York  
September 12, 2011

PREET BHARARA  
United States Attorney for the  
Southern District of New York

By: \_\_\_\_\_/s/\_\_\_\_\_  
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JENNIFER SHASKY CALVERY  
Chief  
Asset Forfeiture and Money  
Laundering Section  
Criminal Division

United States Department of  
Justice

By: \_\_\_\_\_/s/\_\_\_\_\_  
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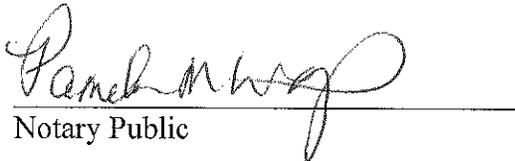
VERIFICATION

District of Columbia )

I, Brian McCormick, being duly sworn, deposed and say that I am an Agent with U.S. Homeland Security Investigation in Miami, Florida. I have read the foregoing Verified Amended Complaint for Forfeiture and declare under penalty of perjury of the laws of the United States of America that it is true and correct to the best of my knowledge, information and belief, the source of my knowledge, information and belief being my personal involvement in the investigation, my review of the reports furnished to me from other law enforcement officers familiar with the case, and my conversations with other law enforcement officers familiar with the case.

  
Brian McCormick, Special Agent  
U.S. Homeland Security Investigation

Subscribed and sworn to before me this 12<sup>th</sup> day of September 12, 2011.

  
Notary Public

My Commission Expires: June 14, 2014

**Pamela M. Washington**  
**Notary Public, District of Columbia**  
**My Commission Expires: June 14, 2014**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

Plaintiff, :

[PROPOSED] ORDER

- v - :

Real Property Known as Unit 5B :

Of The Onyx Chelsea Condominium :

10 Civ.5390(GBD)

Located at 261 West 28<sup>th</sup> Street :

New York, New York 10001-5933 :

Defendant-*in-rem*. :

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Upon consideration of plaintiff's September 12, 2011, Objections to the Report and Recommendation of the Magistrate Judge and Motion to Amend the Complaint, it is hereby ORDERED:

(1) Plaintiff's motion to amend the complaint is GRANTED;

(2) The Clerk is directed to file the proffered amended complaint which was attached to the objections and motion as plaintiff's First Amended Verified Complaint;

(3) Service of the First Amended Verified Complaint is deemed to be made as of the entry date of this Order;

(4) Responses to the First Amended Verified Complaint are to be filed within fourteen days hereof.

ENTERED:

\_\_\_\_\_  
Hon. George B. Daniels  
U.S. District Court Judge

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Date