

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
) No. 10-225 (CKK)
)
)
)
v.)
)
STEPHEN JIN-WOO KIM,)
)
)
)
Defendant.)

STATEMENT OF OFFENSE

Should this matter proceed to trial, the United States of America would prove the following facts beyond a reasonable doubt:

Introduction

1. On or about June 11, 2009, the defendant STEPHEN JIN-WOO KIM (“KIM”), having authorized access to national defense information, that is, the contents of an intelligence report classified at the TOP SECRET/SENSITIVE COMPARTMENTED INFORMATION (“TS//SCI”) level, identified herein by the last six digits of its report number, “3630-09” (referred to hereinafter as the “Intelligence Report”), knowingly and willfully disclosed national defense information, specifically about the military capabilities and preparedness of North Korea, to a person not entitled to receive it, namely a reporter with a national news organization (“Reporter A”). At the time of his unauthorized disclosure, KIM had reason to believe that his unauthorized disclosure of such national defense information could be used to the injury of the United States or to the advantage of a foreign nation.

Defendant’s Background

2. In or about June 2009, KIM was a Lawrence Livermore National Laboratory employee working at the Department of State’s Bureau of Verification, Compliance, and

Implementation (“VCI”). VCI was responsible for ensuring that appropriate verification requirements are fully considered and properly integrated into arms control, nonproliferation, and disarmament agreements and to monitor other countries’ compliance with such agreements. KIM worked as a Senior Advisor for Intelligence to the Assistant Secretary of State for VCI. KIM held a TOP SECRET security clearance on account of his official responsibilities at VCI. As a result, KIM had regular access to classified and national defense information relating to the activities of numerous members of the United States Intelligence Community.

3. Prior to June 2009, KIM entered into various nondisclosure agreements with the United States, obligating him not to disclose classified information to any unauthorized person and advising him that any such unauthorized disclosure could constitute a violation of United States criminal laws, including Title 18, United States Code, Section 793. KIM entered into such nondisclosure agreements both prior to and during his work at the Department of State. The scope of these nondisclosure agreements encompasses the classified information referenced in this Statement of Offense.

Defendant’s Relationship with Reporter A

4. In the Spring of 2009, KIM met Reporter A. Beginning no later than in or about early May 2009, KIM and Reporter A began to communicate via telephone, e-mail, and in person on a number of subjects, including North Korea. Both KIM and Reporter A (who was then assigned to cover the Department of State) had offices in the headquarters building of the Department of State.

Defendant’s Unauthorized Disclosure of National Defense Information

5. On or about June 11, 2009, at approximately 9:50 a.m., the Intelligence Report was disseminated for the first time to members of the United States Intelligence Community on a classified database, access to which was restricted to authorized users. Lawful access to the

Intelligence Report on the classified database required: (a) a TOP SECRET security clearance; (b) authorized access to the classified information sensitive compartment to which the contents of the Intelligence Report related; and (c) authorized access to the classified database itself. As of June 11, 2009, KIM was entrusted with such lawful access, permitting him to access and read the Intelligence Report on the classified database. Reporter A did not have lawful access to the Intelligence Report.

6. On or about June 11, 2009, KIM and Reporter A contacted each other by telephone, both using their Department of State desk phones. Beginning at approximately 11:27 a.m., KIM accessed and read the Intelligence Report on the classified database, using his Department of State computer in his office. At approximately 11:37 a.m., KIM called Reporter A's Department of State desk phone. This call lasted approximately 20 seconds. Immediately thereafter, KIM called Reporter A's cell phone. This second call lasted approximately 1 minute and 8 seconds.

7. Less than a half hour later, KIM and Reporter A met outside of the headquarters building of the Department of State. Badge records demonstrate that they exited the building at nearly the same time, were absent from the building for approximately 25 minutes, and then re-entered the building very close in time.

8. In his interactions with Reporter A, KIM orally disclosed to Reporter A TS//SCI national defense information from the Intelligence Report, specifically about the military capabilities and preparedness of North Korea.

9. Within a few hours after KIM and Reporter A re-entered the headquarters building of the Department of State very close in time at approximately 12:30 p.m., Reporter A's national news organization published an article on the Internet that included TS//SCI national defense information from the Intelligence Report that KIM disclosed to Reporter A, that is, TS//SCI national defense

information specifically about the military capabilities and preparedness of North Korea (“June 11th article”).

10. KIM was never authorized, directly or indirectly, by the United States Government to deliver, communicate, or transmit any national defense information to Reporter A or any other member of the media.

Defendant’s Statements to the FBI

11. The Federal Bureau of Investigation (FBI) interviewed KIM on September 24, 2009, and again on March 29, 2010. In his FBI interview on September 24, 2009, KIM said that he had not had any contact with Reporter A since meeting Reporter A in March 2009. In his FBI interview on March 29, 2010, KIM acknowledged that the information from the Intelligence Report that appeared in the June 11th article was national defense information and properly classified at the TS//SCI level. KIM further acknowledged that the unauthorized disclosure and publication of that information could be used to the injury of the United States or the advantage of a foreign nation.

Conclusion

12. KIM engaged in the conduct described above knowingly and willfully and not by accident or mistake. In disclosing national defense information to Reporter A, KIM did not believe that he was exposing government waste, fraud, abuse, or any other kind of government malfeasance or misfeasance.

This Statement of Offense is not intended to be a complete recitation of all of the facts known to the United States or KIM, but is, instead, intended to provide a sufficient factual basis for the defendant’s plea of guilty to Count One of the Indictment, charging Unauthorized Disclosure of National Defense

Information, in violation of 18 U.S.C. § 793(d).

Respectfully submitted,

Ronald C. Machen Jr. / JMM

Ronald C. Machen Jr.
United States Attorney

G. Michael Harvey

G. Michael Harvey
Jonathan M. Malis
Thomas A. Bednar
Assistant United States Attorneys

Deborah A. Curtis / JMM

Deborah A. Curtis
Julie A. Edelstein
U.S. Department of Justice Trial Attorneys

DEFENDANT'S ACCEPTANCE

I have read every word of this Statement of Offense. Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and after consulting with my attorneys, I agree and stipulate to this Statement of Offense, and declare under penalty of perjury that it is true and correct.

Date: 2/3/14

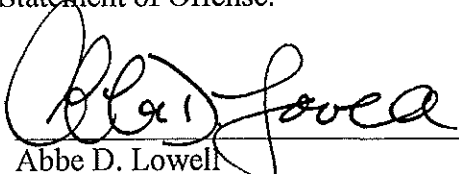


Stephen Jin-Woo Kim
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have discussed this Statement of Offense with my client, Stephen Jin-Woo Kim, and concur with his decision to stipulate to this Statement of Offense.

Date: 2/3/14



Abbe D. Lowell
Attorney for Defendant