

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA, **ENDORSED**
HAYWARD HALL OF JUSTICE

FILED
ALAMEDA COUNTY

PEOPLE OF THE STATE OF CALIFORNIA

468126-7

JUN 15 2016

v.

COMPLAINT NO.

CLERK OF THE SUPERIOR COURT

By: ALISA TAYLOR, Deputy

PETER CHOY

PFN: DSH728

CEN: 6303310

Defendant(s).

T/A 7/6/2016 Dept. No. 502 @ 2:00 P.M.

The Undersigned, being sworn says, on information and belief, that PETER CHOY did, in the County of Alameda, State of California, between June 1, 2013 and August 12, 2015, commit a Felony, to wit: ACTING TO EVADE UI TAX, a violation of section 2117.5 of the UNEMPLOYMENT INSURANCE CODE of California, in that said defendant did then and there, within the time required by the Unemployment Insurance Code of California, willfully fail to file a return and report and to supply information, with the intent to evade any tax imposed by such code, and willfully and with like intent, did make, render, sign, and verify a false or fraudulent return, report, and statement and did supply false and fraudulent information.

SECOND COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between June 1, 2013 and August 12, 2015, commit a Felony, to wit: FAILURE TO COLLECT OR PAY OVER UI TAX, a violation of section 2118.5 of the UNEMPLOYMENT INSURANCE CODE of California, in that said defendant although required by the Unemployment Insurance Code to collect, account for, and pay over any tax or amount required to be withheld, did then and there willfully fail to collect and truthfully account for and pay over such tax or amount.

THIRD COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between June 1, 2013 and August 12, 2015, commit a Felony, to wit: NONPAYMENT OF CONTRIBUTIONS UNDER UNEMPLOYMENT INSURANCE CODE, a violation of section 2108 of the UNEMPLOYMENT INSURANCE CODE of California, in that said defendant did willfully fail and refuse to make contributions due pursuant to section 926-995 of the Unemployment Insurance Code. This violation is punishable under Unemployment Insurance Code section 2122.

FOURTH COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between July 1, 2015 and June 1, 2016, commit a Felony, to wit: INSURANCE FRAUD, a violation of section 11880(a) of the INSURANCE CODE of California, in that said defendant did knowingly make and cause to be made a false and fraudulent statement, orally and in writing, of a fact material to the determination of the premium, rate, and cost of a policy of workers' compensation insurance issued and administered by the State Compensation Insurance Fund, for the purpose of reducing the premium, rate, and cost of insurance.

FIFTH COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between July 1, 2015 and August 15, 2015, commit a Misdemeanor, to wit: FAILURE TO SECURE PAYMENT, a violation of section 3700.5 of the LABOR CODE of California, in that said defendant did fail to secure workers' compensation as required by the Labor Code of California and knew and should have known of his obligation to secure such compensation.

SIXTH COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between May 1, 2015 and August 10, 2015, commit a Felony, to wit: ATTEMPTED GRAND THEFT OF PERSONAL PROPERTY, a violation of section 487(a) of the PENAL CODE of California, in that said defendant did unlawfully attempt to take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit Lawful Money the property of ISMAEL CUYUCH and HUMBERTO QUIROA.

SEVENTH COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, between May 1, 2015 and August 10, 2015, commit a Misdemeanor, to wit: FAILED TO PAY OVERTIME COMPENSATION, a violation of section 510 of the LABOR CODE of California, in that said defendant did fail to pay overtime compensation as required by the Labor Code of California and knew and should have known of his obligation to pay such compensation.

EIGHTH COUNT

The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, on or about August 10, 2015, commit a Misdemeanor, to wit: RETALIATE AGAINST AN EMPLOYEE, a violation of section 98.6(b) of the LABOR CODE of California, in that said defendant did retaliate against an employee because the employee made a written or oral complaint that he is owed unpaid wages and refused to rehire or reinstate the employee.

//

//


NINTH COUNT

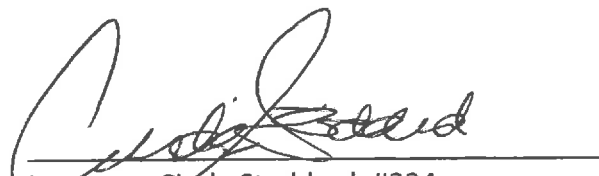
The Undersigned further deposes and says on Information and belief, that said PETER CHOY did, in the County of Alameda, State of California, on or about August 10, 2015, commit a Misdemeanor, to wit: RETALIATE AGAINST AN EMPLOYEE , a violation of section 1102.5(b) of the LABOR CODE of California, in that said defendant did retaliate against an employee for disclosing information to a government or law enforcement agency when the employee had reasonable cause to believe that the information discloses a violation of local, state, or federal rules, regulations or laws.

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Complainant therefore prays that a warrant issue and that said defendant(s) be dealt with according to law.

Subscribed and sworn to before me,
Tuesday, June 14, 2016


WILLIAM MURPHY
Deputy District Attorney
State Bar #200077 th
Alameda County, California


Inspector Cinda Stoddard, #324
Alameda County District Attorney's Office
CEPD No. 15FIW0519

Defendant's Name: Peter Choy

PFN: DSH728

CEN: 6303310

CEPD REPORT # 15FIW0519

DECLARATION IN SUPPORT OF PROBABLE CAUSE

THE UNDERSIGNED HEREBY DECLARES:

1. That she is an INSPECTOR with the Alameda County District Attorney's Office, Oakland, California.
2. That the contents of this declaration, provides probable cause to believe the above-named defendant committed the following offenses:

a.) UI 2117.5	b.) UI 2118.5	c.) UI-2108	d.) IN 11880(a)	e.) LB 3700.5
f.) PC 487(a)	g.) LB 510	h.) LB 98.6	i.) LB 1102.5	

3. I declare under information and belief that the following is true and correct:

On 02/02/2016, I became familiar with the facts in this case after discussing the case with Investigator Chereesse Thymes of the Department of Labor.

Peter Choy is the owner of a construction company called Heng Yuan Engineering Group. He has approximately 8 workers doing residential construction and remodeling. Some of the workers have been with him for 2 years. Choy pays them \$15 per hour in cash. He does not have Worker's Compensation insurance and he does not have an EDD account.

Sometime around June 2015, Choy fell behind with his wage payments and 2 employees complained to the Department of Labor. As a result, the employees won back their wages. Shortly after Choy paid them back wages, he demanded the money back from his employees. The employees refused and Choy fired them.

On August 12, 2015, the Labor Enforcement Task Force (LETF) conducted a compliance inspection at Choy's job site in Berkeley. During that business inspection it was discovered that the company did not have workers compensation insurance and a citation was issued. The business subsequently obtained an insurance policy. My investigation showed that Defendant Choy had several employees. Additionally, two employees indicated they worked with between 6 and 8 additional employees over the course of their employment. Furthermore, multiple workers were seen at the Berkeley jobsite during the multi-agency inspection on 08/12/15. Mr. Choy never reported any of these employees. The DE-9 records from the EDD do not show any wages reported as of 09/30/15.

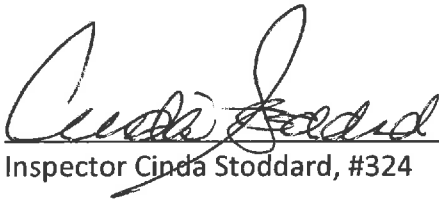
Defendant Choy did not have workers' compensation insurance until the State Compensation Insurance Fund (SCIF) policy started on 8/15/15. There is no record of any insurance prior to that date. The worker's compensation file shows two employees being reported when the policy was created on 08/15/15. The estimated payroll at that time was \$34,000. SCIF Investigator Shirley Prior told me the file shows that several misrepresentations were made when Mr. Choy purchased the insurance. The misrepresentations were when

Defendant Choy denied having employees or payroll prior to 8/15/15 and that he did not pay his workers in cash.

Defendant Choy failed to withhold and pay over to the state thousands of dollars in taxes as required by California Unemployment Code Sections 2108, 2117.5, and 2118.5. Also, Defendant Choy made knowingly false or fraudulent statements, orally and in writing, facts material to the determination of the premium, rate, or cost of his policy of workers' compensation insurance, for the purpose of reducing the premium, rate, or cost of the insurance, which is a violation of the California Insurance Code Section 1180(a).

I declare under penalty of perjury under the laws of the State of California that the foregoing is correct.

Dated: June 14, 2016 at Oakland, California


Inspector Cinda Stoddard, #324

CERTIFICATE OF PROBABLE CAUSE

The Court, upon the review of this declaration, hereby

Finds

Does not Find

good cause to detain the above-named individual.

Date: _____

Time: _____

Magistrate of the Superior Court

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF ALAMEDA

3 THE PEOPLE OF THE STATE OF CALIFORNIA

4 Plaintiff,

5
6 v.

CEPD No.: 15FIW0519

7
8 PETER CHOY

NOTICE OF COMPLAINT

9 3 Jouett Square

10 Alameda, CA 94501

PFN: DSH728

11 Defendant.

CEN: 6303310

12
13 This notice is to inform you that a criminal complaint and summons has been filed
14 against you. Your case has been placed on calendar in *Dept. No. 502 of the Hayward Hall*
15 *of Justice Courthouse, 24405 Amador Street, Hayward, CA 94544 on July 6, 2016 at 2:00*
16 *P.M.*

17 You are required to appear for your arraignment. Failure to appear will result in a
18 *Warrant* being issued for your arrest.

19 DATED: June 14, 2016

20 NANCY E. O'MALLEY
21 District Attorney

22 By:


23 William Murphy
24 Deputy District Attorney

25 **DECLARATION OF SERVICE BY MAIL (C.C.P. 1013A(3), 2015.5)**

26 On the date shown below, I served the foregoing document by depositing a true copy
27 thereof, enclosed in a separate, sealed envelope, with the postage thereon fully prepaid,
28 in the United States mailbox at 7677 Oakport Street, Suite 650, Oakland, California.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 14th day of June, 2016, at Oakland, CA