



U.S. Department of Justice

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Southern Division

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August 23, 2011

Andrew F. Carter, Jr.
Assistant Federal Public Defender
District of Maryland
6411 Ivy Lane, Suite 710
Greenbelt, MD 20770

FILED ENTERED
LODGED RECEIVED

OCT 18 2011

Re: *United States v. Cheng Yi Liang*,
Criminal No. DKC-11-0530

AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY DEPUTY

Dear Mr. Carter:

This letter confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland and the Fraud Section of the Criminal Division of the Department of Justice (collectively "this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by August 26, 2011, it will be deemed withdrawn. The terms of the agreement are as follows:

Offenses of Conviction

1. The Defendant agrees to waive indictment and plead guilty to a two-count information charging him with securities fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff, and making a false statement, in violation of 18 U.S.C. § 1001. The Defendant admits that he is, in fact, guilty of these offenses and will so advise the Court.

Elements of the Offenses

2. The elements of these offenses, to which the Defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows.

Count One: Securities Fraud

First, that the Defendant employed a device, scheme, or artifice to defraud in connection with the purchase or sale of the securities identified in the Information;

Second, that the Defendant knowingly used, or caused someone to use, the means or instrumentalities of interstate commerce, including the telephone, wires, mails, or the facilities of a national securities exchange in connection with the device, scheme, or artifice; and,

Third, that the Defendant acted willfully and with the intent to defraud.

Count Two: False Statement

First, that the Defendant made a statement or representation;

Second, that the statement or representation was material;

Third, that the statement or representation was false, fictitious or fraudulent;

Fourth, that the false, fictitious or fraudulent statement was made knowingly and willfully; and,

Fifth, that the statement or representation was made in a matter within the jurisdiction of the executive branch of the United States government.

Penalties

3. The maximum sentences provided by statute for the offenses to which the Defendant is pleading guilty are as follows: as to Count One, imprisonment for not more than twenty years, followed by a term of supervised release of not more than five years and a fine of \$5,000,000; as to Count Two, imprisonment for not more than five years, followed by a term of supervised release of not more than three years and a fine of not more than \$250,000. An alternative fine may be ordered under 18 U.S.C. § 3571(d) of not more than the greater of twice the gross gain or twice the gross loss. In addition, the Defendant must pay \$200 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court shall also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.¹ If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his

¹ Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the Defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:

a. If the Defendant had persisted in his plea of not guilty, he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.

b. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

c. If the Defendant went to trial, the Government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

d. The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court would instruct the jury that they could not draw any adverse inference from his decision not to testify.

e. If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

f. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him

during a trial except in a criminal proceeding for perjury or false statement.

g. If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.

h. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status. The Defendant recognizes that if he is not a citizen of the United States, pleading guilty may have consequences with respect to his immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including his attorney or the Court, can predict with certainty the effect of a conviction on immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any potential immigration consequences.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A hereto, which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

Count One: Securities Fraud

- a. The base offense level is **8** pursuant to U.S.S.G. § 2B1.4.
- b. The agreed and stipulated loss amount for all of Defendant's insider trading conduct is \$3,776,152, resulting in an increase of **18** levels pursuant to U.S.S.G. § 2B1.1(b)(1)(J).
- c. The government submits that the Defendant used sophisticated means in the commission of his offense, resulting in an increase of **2** levels pursuant to U.S.S.G. § 2B1.1(b)(9)(C). The Defendant reserves the right to oppose such an enhancement.

d. The Defendant abused a position of public trust in the commission of his offenses, resulting in an increase of **2** levels pursuant to U.S.S.G. § 3B1.3. The adjusted offense level thus is **30** or **28**.

Count Two: False Statement

e. The base offense level is **6** pursuant to U.S.S.G. § 2B1.1(a)(2).

Grouping Provision

f. The securities fraud and the false statement counts group under U.S.S.G. § 3D1.2. The adjusted offense level is **30** or **28**.

7. This Office does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty. The final offense level is **27** or **25**.

8. The Defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his income.

9. This Office and the Defendant agree that with respect to the calculation of the advisory guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute. If the Defendant intends to argue for any factor that could take the sentence outside of the advisory guidelines range, he will notify the Court, the United States Probation Officer and government counsel at least fourteen days in advance of sentencing of the facts or issues he intends to raise.

Obligations of the United States Attorney's Office and Department of Justice Fraud Section

10. At the time of sentencing, this Office will recommend a sentence within the applicable guideline range.

11. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct, including uncharged conduct.

Forfeiture

12. The Defendant understands that the Court will, upon acceptance of his guilty plea, enter an order of forfeiture as part of his sentence, and that the order of forfeiture may include assets directly traceable to his offense, substitute assets and/or a money judgment equal to the value of the property derived from, or otherwise involved in, the offense. The Defendant specifically agrees that forfeiture is authorized by 28 U.S.C. § 2461(c) and 18 U.S.C. § 981(a)(1). Specifically, the court will order a forfeiture money judgment in the amount of \$3,776,152, which the parties agree is a sum that constitutes proceeds traceable to the securities fraud scheme to which the Defendant is pleading guilty. The Defendant also agrees that the following property is forfeitable to the United States as property traceable to the fraudulent scheme to which Defendant is pleading guilty:

- a. TD Ameritrade, Inc., account no. xxx-xx7713, in the name of H.J.C.;
- b. Scottrade, Inc., account no. xxxx2288, in the name of Z.C.;
- c. United Central Bank, account no. xxxx2538, in the name of Z.C.;
- d. Ameritrade, Inc., account no. xxx-xx1319, in the name of Z.C.;
- e. Scottrade Inc., account no. xxxx8265, in the name of A.L.;
- f. Scottrade Inc., account no. xxxx6724, in the name of A.L.;
- g. TD Ameritrade, Inc., account no. xxx-xx9776, in the name of H.T.;
- h. Scottrade Inc., account no. xxxx8413, in the name of Chengyi Liang & Y.Z.;
- I. Citibank account no. xxxxxx4563, in the name of Chengyi Liang;
- j. TD Ameritrade, Inc., account no. xxx-xx0849, in the name of Z.L.;
- k. The real property owned by Cheng Yi Liang and Y.Z. and known and numbered as 511 Skidmore Boulevard, Gaithersburg, Maryland 20877, with a legal description of: Lot numbered Six (6) in Block lettered "E" in the subdivision known as "PLAT 2, GATEWAY COMMONS" as per plat recorded in Plat Book 163 at Plat No. 18410, among the Land Records of Montgomery County, Maryland;

and,

1. The real property owned by A.L. and known and numbered as 200 West Deer Park Road, Unit 27-EYE, Gaithersburg, Maryland 20877, with a legal description of: Being known and designated as Condominium Unit numbered and lettered 27-I of a plan of condominium entitled "Brighton East Condominium III", as established pursuant to the Master Deed and By-Laws thereof made by Seventy-S Associates, a Maryland Limited Partnership, dated August 19, 1971 and recorded in Liber 4412 at folio 87 among the Land Records of Montgomery County, Maryland, as amended by instrument dated August 20, 1976 and recorded in Liber 4693 at folio 873, among the aforesaid Land Records, pursuant to the Plat of "Brighton East Condominium III", described as recorded in Condominium Plat Book 3 at Plats 242 thru 249, inclusive, and by amended plat thereof recorded in Condominium Plan Book 16 at Plat 1611.

Any monies realized by the Government from the forfeiture of these assets will be credited towards satisfaction of the money judgment entered against Defendant. The Defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 11(b)(1)(J), 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, advice regarding the forfeiture at the change-of-plea hearing, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

Assisting the Government with Regard to the Forfeiture

13. The Defendant agrees to assist fully in the forfeiture of the foregoing assets. The Defendant agrees to disclose all of his assets and sources of income to the United States, and to take all steps necessary to pass clear title to the forfeited assets to the United States, including but not limited to executing any and all documents necessary to transfer such title, assisting in bringing any assets located outside of the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. Such assistance specifically includes signing any necessary documents to transfer the monies and assets in Defendant's Thrift Savings Plan account to the United States Marshal's Service in partial satisfaction of the money judgment. The Defendant further agrees that he will not assist any third party in asserting a claim to the forfeited assets in an ancillary proceeding and that he will testify truthfully in any such proceeding.

Waiver of Further Review of Forfeiture

14. The Defendant further agrees to waive all constitutional, legal and equitable challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out

in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The Defendant also agrees not to challenge or seek review of any civil or administrative forfeiture of any property subject to forfeiture under this agreement, specifically including but not limited to the action titled *United States v. All Funds and Assets in TD Ameritrade Account Nos. 885-037713, et al.*, Civil No. 11-00794 (D. Md.), and will not assist any third party with regard to such challenge or review or with regard to the filing of a petition for remission of forfeiture.

Collection of Financial Obligations

15. The Defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report in order to evaluate the Defendant's ability to satisfy any financial obligation imposed by the Court. In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the Defendant agrees to disclose fully all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party. The Defendant will promptly submit a completed financial statement to the United States Attorney's Office, in a form this Office prescribes and as it directs. The Defendant promises that the financial statement and disclosures will be complete, accurate and truthful, and understands that any willful falsehood on the financial statement will be a separate crime and may be punished under 18 U.S.C. § 1001 by an additional five years' incarceration and fine.

Waiver of Appeal

16. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:

a. The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the Defendant's conviction;

b. The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the Defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release), except as follows: (i) the Defendant reserves the right to appeal any term of imprisonment to the extent that it exceeds the high end of the applicable guideline range; and, (ii) this Office reserves the right to appeal any term of imprisonment to the extent that it is below the low end of the applicable guideline range.

c. Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from

arithmetical, technical, or other clear error.

d. The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Obstruction or Other Violations of Law

17. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of their obligations under the agreement pursuant to this paragraph.

Court Not a Party

18. The Defendant expressly understands that the Court is not a party to this agreement. In the federal system, the sentence to be imposed is within the sole discretion of the Court. In particular, the Defendant understands that neither the United States Probation Office nor the Court is bound by the stipulation set forth above, and that the Court will, with the aid of the Presentence Report, determine the facts relevant to sentencing. The Defendant understands that the Court cannot rely exclusively upon the stipulation in ascertaining the factors relevant to the determination of sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. The Defendant understands that the Court is under no obligation to accept this Office's recommendations, and the Court has the power to impose a sentence up to and including the statutory maximum stated above. The Defendant understands that if the Court ascertains factors different from those contained in the stipulation set forth above, or if the Court should impose any sentence up to the maximum established by statute, the Defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of his obligations under this agreement. The Defendant understands that neither the prosecutor, his counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the Defendant will receive. The Defendant agrees that no one has made such a binding prediction or promise.

Entire Agreement

19. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant, and constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.

Very truly yours,

Rod J. Rosenstein
United States Attorney

By: David I. Salem
David I. Salem
Assistant United States Attorney

Denis J. McInerney
Chief, Fraud Section
Criminal Division
United States Department of Justice

By: Thomas B. W. Hall (DS)
Thomas B. W. Hall
Trial Attorney

Kevin B. Muhlendorf (DS)
Kevin B. Muhlendorf
Trial Attorney

I have read this agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

X 9-19-11 10/18/11
Date

X Cheng Yi Liang *Cheng Yi Liang*
Cheng Yi Liang

I am Cheng Yi Liang's attorney. I have carefully reviewed every part of this agreement with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

9/19/11 10/18/11
Date

Andrew F. Carter, Jr. *Andrew F. Carter, Jr.*
Andrew F. Carter, Jr.

ATTACHMENT A – STATEMENT OF FACTS: CHENG YI LIANG

The parties hereby stipulate and agree that if this matter had gone to trial, the government would have proven the following facts beyond a reasonable doubt. The parties also stipulate and agree that the following facts do not encompass all of the evidence which would have been presented had this matter gone to trial.

In October 1996, **CHENG YI LIANG** (“**LIANG**”) began work at the Food and Drug Administration (“**FDA**”), a component of the Department of Health and Human Services in the executive branch of the United States government, located in Montgomery County, Maryland. **LIANG** worked as a chemist in the Center for Drug Evaluation Research (“**CDER**”), Office of New Drug Quality Assessment (“**ONDQA**”). **CDER** regulates over-the-counter and prescription drugs, including biological therapeutics and generic drugs; **ONDQA** assesses quality attributes and manufacturing processes of new drugs, establishes quality standards to assure safety and efficacy, and facilitates new drug development. In his position, **LIANG** had access to sensitive information regarding new drug applications (“**NDAs**”) submitted by pharmaceutical companies to the **FDA**. **LIANG** had access to the **FDA**’s Document Archiving, Reporting and Regulatory Tracking System (“**DARRTS**”) system, which **CDER** uses internally to manage, track, receive and report on **NDAs** as well as emerging significant drug safety issues.

Through his access to the **DARRTS** system, **LIANG** was able to review documents related to the progression of experimental drugs through the **FDA** new drug approval process, including, among the confidential and non-public documents, results of internal **FDA** trials and studies, confidential correspondence between **FDA** representatives and pharmaceutical company representatives, and internal **FDA** memoranda. Much of the information accessible on the **DARRTS** system constituted material, non-public information (“**FDA Inside Information**”) regarding the pharmaceutical companies which had submitted their experimental drugs to the **FDA** for approval.

Between in or about July 2006 and in or about March 2011, **LIANG** traded on the securities of pharmaceutical companies using **FDA Inside Information**, in knowing violation of fiduciary and other duties of trust and confidence he owed to the **FDA**. Among other things, he was aware of the Standards of Ethical Conduct for Employees of the Executive Branch, which state that “an employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure.” 5 C.F.R. § 2635.703(a) **LIANG** received a copy of this Standards of Ethical Conduct and understood that he was personally responsible for complying with the Standards and Employee Conduct regulations.

To carry out the scheme, **LIANG** reviewed the **DARRTS** system or otherwise gathered **FDA Inside Information** to determine when an **FDA** announcement regarding an experimental drug was imminent and to determine the substance of the announcement. Prior to the announcement, **LIANG** used brokerage accounts registered in the names of **LIANG**’s relatives and acquaintances but which **LIANG** controlled (the “**Controlled Accounts**”) to execute trades. These **Controlled Accounts** traded in national securities exchanges in order to make the trades ordered by **LIANG**. When the non-public **FDA** action was positive for a particular company’s product, **LIANG** caused the

Controlled Accounts to purchase securities. Conversely, **LIANG** caused the Controlled Accounts to place short sale orders when the non-public FDA action was negative for a particular company's product. **LIANG** would place these trades from his home computer or from an Apple iPad. After the FDA's action was made public, **LIANG** used the Controlled Accounts to execute trades to profit from the change in the company's share price as a result of the FDA announcement, resulting in total profits and losses avoided of \$3,776,152.

For example, on May 21, 2010, the FDA accepted Clinical Data Inc.'s ("Clinical Data") NDA for Viibryd, an antidepressant with the active ingredient Vilazodone. The FDA set a Prescription Drug User Fee Act ("PDUFA") date¹ of January 22, 2011, which was publicly announced by Clinical Data in a press release. Between January 6 and January 21, 2011, **LIANG** regularly accessed the DARRTS system and reviewed information regarding Clinical Data's drug Viibryd. Between January 6 and January 20, 2011, **LIANG** purchased a total of 46,875 shares of Clinical Data stock using the Controlled Accounts. After the markets closed on Friday, January 21, 2011, Dow Jones released news of Viibryd's approval. Clinical Data's stock price closed at approximately \$15.03 per share on January 21, 2011 and opened at approximately \$24.76 per share on January 24, 2011, the first trading day after news of the approval became public. On January 24, 2011, **LIANG** sold all 46,875 shares of Clinical Data stock in the Controlled Accounts, netting a total profit of approximately \$384,300. **LIANG** knowingly and willfully employed a scheme or artifice to defraud in connection with the purchase and sale of Clinical Data securities and in doing so, used or caused someone to use the instrumentalities of interstate commerce, specifically the wires and the facilities of a national securities exchange.

FDA employees are also required to submit an annual Form 450 Confidential Financial Disclosure, disclosing, among other things, investment assets with a value greater than \$1000 and sources of income greater than \$200. This form warns on its cover page that "[k]nowing and willful falsification of information required to be reported may also subject you to criminal prosecution." During the time **LIANG** was trading in the Controlled Accounts using FDA Inside Information, **LIANG** annually filed these disclosure forms and failed to disclose his trading using the Controlled Accounts and his income from his illicit securities trading.

¹ The PDUFA requires the CDER to review and act upon at least 90% of NDAs for standard drugs no later than ten months after the application is received. The date by which the CDER is required to act is commonly referred to as the "PDUFA date." PDUFA dates are publicly known, as the "sponsors" typically announce the dates in press releases and filings.

For example, on February 16, 2010, **LIANG** signed and submitted his 2010 Confidential Financial Disclosure Form. On that form, **LIANG** disclosed a variety of stock holdings and sources of income for the preceding year. However, he failed to disclose that during 2009, he earned approximately \$1,040,000 from trading on FDA Inside Information in the pharmaceutical stock known as Vanda. This information was material to FDA decisions regarding whether or not a particular employee may be unfairly using FDA information or otherwise engaging in unethical conduct, and the answers to the questions posed on the form were matters within the jurisdiction of the FDA.

I have read this statement of facts and carefully reviewed it with my attorney. I acknowledge that it is true and correct.

9-19-11
Date

Cheng Yi Liang
Cheng Yi Liang

10/18/11

Cheng Yi Liang