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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2014 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUO XIANG FAN,
aka "David Fan,"
aka "Guo Xiang Chen,"
and
CHUNG YU YEUNG,
aka "Louis Yeung,"

Defendants.

No. CR 14- CR14-0609

I N D I C T M E N T

[18 U.S.C. § 1349: Conspiracy to Commit Bank Fraud; 18 U.S.C. § 1344: Bank Fraud; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done; 18 U.S.C. § 1956(h): Conspiracy to Launder Monetary Instruments; 18 U.S.C. §§ 982(a)(1) and 982(a)(2)(A): Criminal Forfeiture]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 1349]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant GUO XIANG FAN, also known as ("aka") "David Fan," aka "Guo Xiang Chen" ("defendant FAN"), was the President

and Chief Executive Officer of Eastern Tools and Equipment ("ETQ"), a company that sold portable generators and other equipment. ETQ maintained its business headquarters in Ontario, California, within the Central District of California.

2. Defendant CHUNG YU YEUNG, aka "Louis Yeung" ("defendant YEUNG"), was a Vice President of ETQ.

3. Unindicted co-conspirator "X.C.P." was defendant FAN's wife and a Director of ETQ.

4. Unindicted co-conspirator "A.Y.," aka "K.Y.Y." ("unindicted co-conspirator A.Y."), was the Controller of ETQ.

5. Unindicted co-conspirator "J.L.C." was an employee of ETQ.

6. Unindicted co-conspirators "W.W.," "P.C.," and "K.D." were associates of defendants FAN and YEUNG, who assisted defendants FAN and YEUNG in creating and maintaining shell companies.

7. United Commercial Bank ("UCB") and East West Bank ("East West") (collectively the "lenders") were financial institutions, the deposits of which were insured by the Federal Deposit Insurance Corporation.

8. In approximately November 2009, East West began to absorb UCB, taking over UCB's accounts.

9. In or about 2006, defendants FAN and YEUNG applied to UCB and obtained a $5 million line of credit on behalf of ETQ. As part of the application process, defendant FAN signed and submitted an initial promissory note, a business loan agreement, and other documents (collectively, the "loan documents") to UCB.

10. Under the terms of the loan documents, the borrowing base formula for ETQ's line of credit was based on two factors: (1) ETQ's accounts receivable, i.e., funds owed to ETQ by customers that purchased merchandise from ETQ; and (2) ETQ's inventory. The amount of money that ETQ would be able to borrow pursuant to the line of credit was based on a formula, namely 75% of net accounts receivable for all eligible accounts, plus 60% of net eligible inventory, up to a predetermined ceiling. Until in or about April 2010, the ceiling was $10 million; after that time, the ceiling was raised to $11 million.

11. The loan documents explicitly defined "eligible accounts" so as to exclude any account that was a subsidiary of or affiliated with ETQ or its shareholders, officers, or directors.

12. Under the terms of the loan documents, ETQ was required to submit a monthly borrowing base certificate to justify the continuation of credit for the existing loaned funds and to permit borrowing of additional funds under the line of credit. The monthly borrowing base certificate required ETQ to provide number entries for the two relevant categories: (1) net accounts receivable for all eligible accounts; and (2) eligible inventory. ETQ also was required to submit with the monthly borrowing base certificate a collateral accounts receivable aging report. (The monthly borrowing base certificates and accounts receivable aging reports are hereinafter referred to as the "monthly submissions.")

13. Also under the terms of the loan documents, the monthly submissions were required to be accurate,

complete, and truthful. An officer of ETQ was required to sign the monthly submissions certifying that they were accurate, complete, and truthful.

The Troubled Asset Relief Program

14. The United States Treasury Department's Troubled Asset Relief Program ("TARP") was created by the Emergency Economic Stabilization Act of 2008 to restore liquidity and stability to the financial system in the wake of the preceding financial crisis. Under TARP's Capital Purchase Program, taxpayer money was invested with financial institutions in order to expand the flow of credit to United States consumers and businesses to promote the sustained growth and vitality of the United States economy. UCB and East West were recipients of TARP funds.

B. THE OBJECT OF THE CONSPIRACY

15. Beginning in or around June 2007, and continuing through in or around September 2012, in Los Angeles County, within the Central District of California, and elsewhere, defendants FAN and YEUNG, together with unindicted co-conspirators X.C.P., A.Y., J.L.C., W.W., K.D., P.C., and others known and unknown to the Grand Jury, knowingly combined, conspired, and agreed to commit bank fraud, in violation of Title 18, United States Code, Section 1344.

C. THE MANNER AND MEANS OF THE CONSPIRACY

16. The object of the conspiracy was carried out, and to be carried out, in substance, as follows:

a. Defendant FAN, defendant YEUNG, and their co-conspirators, including unindicted co-conspirators X.C.P., A.Y.,

J.L.C., W.W., K.D., and P.C., would create and cause to be created, and maintain and cause to be maintained, approximately 20 shell companies (collectively the "shell companies"), including, among others, Greystone Distributing Inc., International Power City, and Western Wiss Sales Inc. One purpose of the shell companies would be to create the appearance that ETQ had greater eligible accounts receivable than it actually did.

b. Defendants FAN and YEUNG, and their co-conspirators, including unindicted co-conspirators X.C.P., A.Y., J.L.C., W.W., K.D., and P.C., would file fictitious business name statements, create DBAs, open post office boxes, open bank accounts, and set up telephone numbers for the shell companies.

c. Defendants FAN and YEUNG, and their co-conspirators, including unindicted co-conspirators X.C.P., A.Y., J.L.C., W.W., K.D., and P.C., would move money from ETQ's bank account into and among the shell companies' bank accounts to create the false appearance of substantial commercial activity that would support the overstated accounts receivable amounts that defendants FAN and YEUNG would fraudulently claim that ETQ held.

d. Defendants FAN and YEUNG would submit and cause to be submitted to UCB and East West numerous monthly submissions related to ETQ that contained two types of material misrepresentations. First, defendants FAN and YEUNG would overstate eligible accounts receivable related to ETQ by including ineligible accounts receivable, namely, accounts

receivable purportedly from customers that were, in fact, from shell companies created by and affiliated with defendants FAN and YEUNG, and their co-conspirators, including unindicted co-conspirators X.C.P., A.Y., J.L.C., W.W., K.D., and P.C. As such, these accounts receivable were not eligible accounts that should have been considered when determining the borrowing base formula for ETQ's line of credit under the terms of the loan documents. Second, defendants FAN and YEUNG would identify as customers companies that were, in reality, not actual customers of ETQ. For the most part, the shell companies did not actually buy anything from ETQ, did not receive any merchandise from ETQ, and did not owe any money to ETQ.

e. Defendants FAN and YEUNG would submit and cause to be submitted to UCB and East West various requests for increases in ETQ's line of credit, knowing that the documentation supporting these requests, including documentation showing the overstatement of accounts receivable owed to ETQ, was materially false. As a result of these fraudulent requests, defendants FAN and YEUNG would cause ETQ's line of credit to increase to a maximum amount of $11 million.

f. Under the terms of the loan documents, the inventory at ETQ's Ontario headquarters was collateral for the loans provided pursuant to the loan documents. In or around September 2012, after ETQ had failed to make payments due on the line of credit and East West secured a court order prohibiting ETQ from selling, moving, or dissipating ETQ's inventory in any way, defendants FAN and YEUNG would move and cause to be moved

ETQ's inventory out of ETQ's Ontario facility to various other locations, including an ETQ facility in Ohio, with the intention of selling the inventory in violation of the court order and preventing East West from foreclosing on the collateral for the line of credit.

17. As a result of the fraudulent representations that defendants FAN and YEUNG submitted and caused to be submitted to UCB and East West, as well as the dissipation of ETQ's inventory at the direction of defendants FAN and YEUNG in violation of a court order, East West sustained a loss of approximately $9,157,172.

COUNTS TWO THROUGH FIVE

[18 U.S.C. §§ 1344, 2]

A. INTRODUCTORY ALLEGATIONS

18. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 14 of this Indictment as though set forth in their entirety herein.

B. THE SCHEME TO DEFRAUD

19. Beginning in or around June 2007, and continuing through in or around September 2012, in Los Angeles County, within the Central District of California, and elsewhere, defendants FAN and YEUNG, aiding and abetting each other, together with unindicted co-schemers X.C.P., A.Y., J.L.C., W.W., K.D., P.C., and others known and unknown to the Grand Jury, knowingly and with intent to defraud, executed and attempted to execute a scheme to defraud UCB and East West as to material matters and to obtain moneys, funds, assets, and other properties owned by and in the custody and control of UCB and East West, by means of materially false and fraudulent pretenses, representations, and promises, and the concealment of material facts.

20. The fraudulent scheme operated, in substance, as described in paragraph 16 of this Indictment, which is hereby incorporated by reference as though set forth in its entirety herein.

C. EXECUTIONS OF THE FRAUDULENT SCHEME

21. On or about the dates set forth below, within the Central District of California and elsewhere, defendants FAN and YEUNG, together with unindicted co-schemers X.C.P., A.Y.,

J.L.C., W.W., K.D., P.C., and others known and unknown to the Grand Jury, committed and willfully caused others to commit the following acts, each of with constituted an execution and attempted execution of the fraudulent scheme:

COUNT	APPROXIMATE DATE	ACT
TWO	6/30/09	Submission of ETQ Borrowing Base Certificate to the lenders, which falsely listed approximately $8,437,895 in eligible accounts receivable.
THREE	9/30/09	Submission of ETQ Borrowing Base Certificate to the lenders, which falsely listed approximately $8,857,435 in eligible accounts receivable.
FOUR	2/28/10	Submission of ETQ Borrowing Base Certificate to the lenders, which falsely listed approximately $11,026,726 in eligible accounts receivable.
FIVE	7/31/10	Submission of ETQ Borrowing Base Certificate to the lenders, which falsely listed approximately $11,223,912 in eligible accounts receivable.

COUNT SIX

[18 U.S.C. § 1956(h)]

A. INTRODUCTORY ALLEGATIONS

22. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 14, 16, and 20 of this Indictment as though set forth in their entirety herein.

23. In or around March 2004, defendant FAN and unindicted co-conspirator X.C.P. opened UCB bank account number **** 7367 for Universal Bio-Medical dba Universal Sales Marketing Company (the "Universal Bio Account").

24. In or around March 2009, unindicted co-conspirator X.C.P. opened UCB bank account number **** 3367 for Infinity Marketing and Consulting Group (the "Infinity Account").

B. THE OBJECT OF THE CONSPIRACY

25. Beginning in or about June 2007 and continuing to in or about September 2012, in the Central District of California and elsewhere, defendant FAN, together with unindicted co-conspirator X.C.P. and others known and unknown to the Grand Jury, conspired and agreed with each other to knowingly and intentionally commit the following offense against the United States: Knowing that the property involved in a financial transaction affecting interstate commerce represented the proceeds of some form of unlawful activity, and which property was, in fact, the proceeds of specified unlawful activity, that is, conspiracy to commit bank fraud and bank fraud, in violation of Title 18, United States Code, Sections 1349 and 1344, conducting and attempting to conduct financial transactions knowing that the transactions were designed in whole and in part

to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

C. THE MANNER AND MEANS OF THE CONSPIRACY

26. The object of the conspiracy was carried out, and to be carried out, in substance, as follows:

a. Defendant FAN, together with unindicted co-conspirator X.C.P. and others known and unknown to the Grand Jury, would transmit, and cause to be transmitted, funds from the ETQ operating account that were the proceeds of the bank fraud scheme described in paragraphs 11 and 15 above, to the Infinity Account, which had previously been dormant, and the Universal Bio Account, for the purpose of concealing and disguising the true nature, ownership, and control of these proceeds.

b. Defendant FAN, together with unindicted co-conspirator X.C.P. and others known and unknown to the Grand Jury, would conceal and disguise the true nature, ownership, and control of the proceeds described above by, among other means, making it appear as if ETQ owed money to Infinity Marketing and Consulting Group and Universal Sales Marketing Company for legitimate business expenses, including marketing and consulting expenses.

c. Defendant FAN, together with unindicted co-conspirator X.C.P. and others known and unknown to the Grand Jury, would then transfer the proceeds of the bank fraud from the Infinity and Universal Bio Accounts to defendant FAN and

unindicted co-conspirator X.C.P., who would then use the proceeds to pay personal expenses, including mortgage payments.

FORFEITURE ALLEGATION

[18 U.S.C. §§ 982(a)(1) and 982(a)(2)(A)]

1. Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, notice is hereby given to defendants GUO XIANG FAN, also known as ("aka") "David Fan," aka "Guo Xiang Chen" ("defendant FAN"), and CHUNG YU YEUNG, aka "Louis Yeung" ("defendant YEUNG"), that the United States of America will seek forfeiture as part of any sentence, in accordance with Title 18, United States Code, Sections 982(a)(1) and 982(a)(2)(A), in the event of any defendant's conviction on any of Counts One through Six of this Indictment.

2. Defendants FAN and YEUNG shall forfeit to the United States of America the following property:

a. all right, title, and interest in any and all property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of any offense set forth in any of Counts One through Six of this Indictment, including but not limited to, the real property located in San Dimas, California, owned by Louis Yeung and Carolyn Zhuang, husband and wife as joint tenants, more particularly described as:

Real property, in the city of San Dimas, County of Los Angeles, State of California, described as follows:

Parcel No. 1:

Lot 15 of Tract 44041 in the City of San Dimas, California, as Per map Recorded in Book 1088 Pages 1 to 6 Inclusive of Maps, in the Office of the County Recorder of Said County.

Except therefrom all minerals, including, without

limitation, all gas, minerals, hydrocarbon and similar rights, and all water, water rights, geothermal steam, and steam power, within or underlying such Real Property, together with the Perpetual Right of Development thereof, provided, however, that such rights do not include the right to enter upon the surface and Top 500 feet of the subsurface of said land, as per deed recorded September 30, 1988, as Instrument No. 88-1584909.

Parcel No. 2:

Non-Exclusive Easements for access, ingress, egress, drainage, maintenance, repairs, and for other purposes, all as described in the Declaration of Covenants Conditions and Restrictions and Reservation of Easements for Rancho via Verde Recorded on January 20, 1987, as Instrument No. 87-75344 and any amendments thereto. Assessor's Parcel No. 8448-054-015.; and

b. a sum of money equal to the total value of the property described in subparagraph 2(a). If more than one defendant is found guilty on any of Counts One through Six, each defendant found guilty shall be jointly and severally liable for the entire amount forfeited pursuant to that Count.

3. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the total value of the property described in the preceding paragraph if, as the result of any act or omission of a defendant, the property described in the preceding paragraph, or any portion thereof (a) cannot be located upon the exercise of

due diligence; (b) has been transferred, sold to, or deposited with a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been commingled with other property that cannot be divided without difficulty.

A TRUE BILL

/S/
Foreperson

STEPHANIE YONEKURA
Acting United States Attorney

ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division

RICHARD E. ROBINSON
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