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

FILED

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

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

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

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

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

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

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

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

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

23 9. In or about 2006, defendants FAN and YEUNG applied to
24 UCB and obtained a \$5 million line of credit on behalf of ETQ.
25 As part of the application process, defendant FAN signed and
26 submitted an initial promissory note, a business loan agreement,
27 and other documents (collectively, the "loan documents") to UCB.
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1 10. Under the terms of the loan documents, the borrowing
2 base formula for ETQ's line of credit was based on two factors:
3 (1) ETQ's accounts receivable, i.e., funds owed to ETQ by
4 customers that purchased merchandise from ETQ; and (2) ETQ's
5 inventory. The amount of money that ETQ would be able to borrow
6 pursuant to the line of credit was based on a formula, namely
7 75% of net accounts receivable for all eligible accounts, plus
8 60% of net eligible inventory, up to a predetermined ceiling.
9 Until in or about April 2010, the ceiling was \$10 million; after
10 that time, the ceiling was raised to \$11 million.

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

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

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

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

4 The Troubled Asset Relief Program

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

14 B. THE OBJECT OF THE CONSPIRACY

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

23 C. THE MANNER AND MEANS OF THE CONSPIRACY

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

26 a. Defendant FAN, defendant YEUNG, and their co-
27 conspirators, including unindicted co-conspirators X.C.P., A.Y.,
28

1 J.L.C., W.W., K.D., and P.C., would create and cause to be
2 created, and maintain and cause to be maintained, approximately
3 20 shell companies (collectively the "shell companies"),
4 including, among others, Greystone Distributing Inc.,
5 International Power City, and Western Wiss Sales Inc. One
6 purpose of the shell companies would be to create the appearance
7 that ETQ had greater eligible accounts receivable than it
8 actually did.

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

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

22 d. Defendants FAN and YEUNG would submit and cause
23 to be submitted to UCB and East West numerous monthly
24 submissions related to ETQ that contained two types of material
25 misrepresentations. First, defendants FAN and YEUNG would
26 overstate eligible accounts receivable related to ETQ by
27 including ineligible accounts receivable, namely, accounts
28

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

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

21 f. Under the terms of the loan documents, the
22 inventory at ETQ's Ontario headquarters was collateral for the
23 loans provided pursuant to the loan documents. In or around
24 September 2012, after ETQ had failed to make payments due on the
25 line of credit and East West secured a court order prohibiting
26 ETQ from selling, moving, or dissipating ETQ's inventory in any
27 way, defendants FAN and YEUNG would move and cause to be moved
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1 ETQ's inventory out of ETQ's Ontario facility to various other
2 locations, including an ETQ facility in Ohio, with the intention
3 of selling the inventory in violation of the court order and
4 preventing East West from foreclosing on the collateral for the
5 line of credit.

6 17. As a result of the fraudulent representations that
7 defendants FAN and YEUNG submitted and caused to be submitted to
8 UCB and East West, as well as the dissipation of ETQ's inventory
9 at the direction of defendants FAN and YEUNG in violation of a
10 court order, East West sustained a loss of approximately
11 \$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.,

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

<u>COUNT</u>	<u>APPROXIMATE DATE</u>	<u>ACT</u>
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

1 to conceal and disguise the nature, location, source, ownership,
2 and control of the proceeds of said specified unlawful activity,
3 in violation of Title 18, United States Code, Section
4 1956(a)(1)(B)(i).

5 C. THE MANNER AND MEANS OF THE CONSPIRACY

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

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

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

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

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

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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
2 Procedure, notice is hereby given to defendants GUO XIANG FAN,
3 also known as ("aka") "David Fan," aka "Guo Xiang Chen"
4 ("defendant FAN"), and CHUNG YU YEUNG, aka "Louis Yeung"
5 ("defendant YEUNG"), that the United States of America will seek
6 forfeiture as part of any sentence, in accordance with Title 18,
7 United States Code, Sections 982(a)(1) and 982(a)(2)(A), in the
8 event of any defendant's conviction on any of Counts One through
9 Six of this Indictment.
10
11

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

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

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

24 Parcel No. 1:

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

28 Except therefrom all minerals, including, without

1 limitation, all gas, minerals, hydrocarbon and similar
2 rights, and all water, water rights, geothermal steam, and
3 steam power, within or underlying such Real Property,
4 together with the Perpetual Right of Development thereof,
5 provided, however, that such rights do not include the
6 right to enter upon the surface and Top 500 feet of the
7 subsurface of said land, as per deed recorded September 30,
8 1988, as Instrument No. 88-1584909.

9 Parcel No. 2:

10 Non-Exclusive Easements for access, ingress, egress,
11 drainage, maintenance, repairs, and for other purposes, all
12 as described in the Declaration of Covenants Conditions and
13 Restrictions and Reservation of Easements for Rancho via
14 Verde Recorded on January 20, 1987, as Instrument No. 87-
15 75344 and any amendments thereto. Assessor's Parcel No.
16 8448-054-015.; and

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

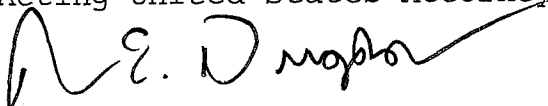
22 3. Pursuant to Title 21, United States Code, Section
23 853(p), as incorporated by Title 18, United States Code, Section
24 982(b), each defendant shall forfeit substitute property, up to
25 the total value of the property described in the preceding
26 paragraph if, as the result of any act or omission of a
27 defendant, the property described in the preceding paragraph, or
28 any portion thereof (a) cannot be located upon the exercise of

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

6
7
8 A TRUE BILL

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Foreperson

11
12 STEPHANIE YONEKURA
Acting United States Attorney

13 
14 ROBERT E. DUGDALE
15 Assistant United States Attorney
Chief, Criminal Division

16 RICHARD E. ROBINSON
17 Assistant United States Attorney
Chief, Major Frauds Section

18 BENJAMIN D. SINGER
19 Deputy Chief, Fraud Section
United States Department of Justice

20 FRED MEDICK
21 Trial Attorney, Fraud Section
United States Department of Justice