

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

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MUR 4530

Chien Chuen "Johnny" Chung

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**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by the DNC Services Corporation/Democratic National Committee ("DNC"). An investigation was conducted and the Federal Election Commission ("Commission") found probable cause to believe that Chien Chuen "Johnny" Chung ("Respondent") knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f and violated 2 U.S.C. §§ 441a(a)(1)(B), 441a(a)(3) and 441e(a).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
  1. Respondent is a resident of California, and was the president and CEO of Automated Intelligent Systems, Inc. ("AIS"), a California corporation, at the time of the events in this matter.

2. Individuals are prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office, which in the aggregate, exceed \$1,000 and to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$20,000. 2 U.S.C. §§ 441a(a)(1)(A) and (B). Pursuant to 2 U.S.C. § 441a(a)(3), an individual is prohibited from making contributions aggregating more than \$25,000 in a calendar year. Furthermore, any contributions made to a candidate in a year other than the calendar year in which the election is held with respect to which such a contribution is made, is considered to be made during the calendar year in which such election is held. Id.

3. Foreign nationals are prohibited from making contributions in connection with an election to any political office, either directly or through any other person, pursuant to 2 U.S.C. § 441e(a). It is also forbidden for any person to solicit, accept, or receive any such contribution from a foreign national. Further, it is unlawful for any foreign national to direct, dictate, control, or directly or indirectly participate in the decision-making process of any person with regard to decisions concerning the making of contributions in connection with elections for any local, State or Federal office. 11 C.F.R. § 110.4(a)(3). The term "foreign national" includes, inter alia, an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(2) of Title 8, or a foreign principal as defined in title 22. 2 U.S.C. § 441e(b). 22 U.S.C. § 611(b) defines "foreign principal" as, inter alia, a foreign government.

4. No person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, pursuant to 2 U.S.C. § 441f.

5. The Clinton/Gore '96 Primary Committee, Inc. ("Clinton/Gore '96") held a fundraising dinner in Century City, California on September 21, 1995. The cost for attending the event was \$1,000. The Respondent brought 20 guests to the September 21, 1995 event, and attempted to pay for them with a \$25,000 check made out to the Democratic National Committee ("DNC"). Respondent offered Karen Sternfeld ("Sternfeld"), then Clinton/Gore '96 Deputy Finance Director for Southern California, a check that was drawn on his personal account to pay for him and his guests. Sternfeld rejected this check and told Respondent that he had to provide her with 20 checks for \$1,000 each from 20 different individuals.

6. On September 22, 1995, Sternfeld spoke by telephone to Irene Wu ("Wu"), an AISI employee. Sternfeld told Wu that Clinton/Gore '96 still needed individual checks for the Century City event. Wu told Sternfeld that all the guests had left, and she could not get individual checks anymore. Sternfeld responded that the contributors did not necessarily have to be the same people that had attended the event. Sternfeld said that she and others from Clinton/Gore '96 would be at a restaurant after 5:00 p.m. that evening and Wu could deliver the checks to her there. Respondent delegated to Wu the task of collecting individual contribution checks, and Respondent stated that he would reimburse the individuals who contributed with cash.

7. Wu, with the assistance of others, collected twenty individual \$1,000 checks to Clinton/Gore '96 from conduits, all of whom were told they would be reimbursed, and delivered them to Sternfeld at the restaurant on the evening of September 22, 1995. At Respondent's direction, cash was withdrawn from two of Respondent's personal bank accounts, and \$1,000 in cash was delivered to each of the twenty conduit contributors to reimburse them for the checks they had written to Clinton/Gore '96.

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8. On March 16, 1998, Respondent pled guilty to conspiring to violate 2 U.S.C. §§ 441a and 441f in connection with making \$20,000 in contributions to Clinton/Gore '96 through conduits. As part of his plea agreement Respondent admitted that in engaging in the foregoing acts, he knew the making of contributions to Clinton/Gore '96 in excess of the \$1,000 contribution limit and making contributions in the name of another was unlawful.

9. On September 9, 1996, Respondent hosted a fundraising event for the Kerry Committee in Beverly Hills, California. Respondent brought four guests to the event. In order to pay for these guests, Respondent agreed to reimburse four individuals, each of whom wrote a \$2,000 check on their own accounts to the Kerry Committee. Respondent reimbursed the four conduit contributors with checks from his own bank account. On March 16, 1998, Respondent pled guilty to conspiring to violate 2 U.S.C. §§ 441a and 441f in connection with making \$8,000 in contributions to the Kerry Committee through conduits. As part of his plea agreement Respondent admitted that in engaging in the foregoing acts, he knew the making of contributions to the Kerry Committee in excess of the \$2,000 contribution limit (\$1,000 each for the primary and general elections) and making contributions in the name of another was unlawful.

10. During calendar year 1996, Chung contributed \$100,000 to the DNC, \$35,000 of which was to the DNC's federal account. During 1996, Respondent also contributed \$10,000 to the Democratic Senatorial Campaign Committee, \$1,000 to the Committee for Loretta Sanchez, \$1,000 each to the Kerry Committee primary and general election accounts in his own name, and \$8,000 to the Kerry Committee in the names of others. In addition, the \$20,000 in contributions to Clinton/Gore '96 made through conduits in September 1995 are considered to have been made in 1996, the year the election was held. In all, Respondent made \$76,000 in federal contributions during 1996, \$51,000 in excess of the \$25,000 annual limit.

11. During 1995 and 1996, Respondent developed consulting relationships with Chinese business contacts. In exchange for money, Respondent would perform a number of services for his clients, including assisting them to get visas to the United States, escorting them around the country, providing interpreting services, paying their expenses, introducing them to business and government officials, and providing opportunities for them to have pictures taken with these officials. Respondent promoted himself as someone who could assist Chinese business efforts in the United States. While Respondent's receipts of funds from foreign nationals were, in some instances, in close proximity to his contributions, and his consulting clients understood that when Respondent took them to fundraising events, he would often have to contribute, Respondent has maintained that when he received money from his business contacts, it was to provide services for them, and he considered the money to be his to spend as he wished. Respondent did not discuss with his business clients when or how much to contribute, but instead decided by himself when to go to an event, who he would invite, and how much he would contribute. Respondent has reported as income all the money he received. Respondent received in excess of \$2 million in connection with his business relationships in China, but less than 20% was contributed to political causes.

12. In one instance a Chinese contact gave Respondent money and explicitly conveyed to Respondent that it could be used for a specific political candidate or party. That contact was General Ji Shengde ("General Ji"), the Military Intelligence Director of the People's Liberation Army, to whom Respondent was introduced by Liu Chao-Ying ("Liu"), Respondent's then business partner who was also a Chinese aerospace executive and the daughter of a retired Chinese general. General Ji, Liu and the People's Republic of China are "foreign nationals" within the meaning of 2 U.S.C. § 441e(b).

13. Prior to Respondent's meeting with General Ji, Liu, during a trip to the United States in July 1996, had asked Respondent if he had a Hong Kong bank account, and Respondent gave Liu the bank account number by handing her a voided check. Liu also promised to give Respondent \$300,000 to help her set up a business in the United States. Respondent set up the business, a California corporation called Marswell Investments, Inc., using his own money, but expected that the costs would ultimately come from the \$300,000 that Liu had said she would give him.

14. On August 11, 1996, Respondent and Liu met with General Ji in Hong Kong. At this meeting, General Ji used an alias, and Respondent did not know his identity until Liu told Respondent after the meeting. During the meeting, General Ji relayed the following information to Respondent: "We really like your President. We hope that he will be reelected. I will give you \$300,000 U.S. dollars. You can give it to [or use it for] your President or the Democrat Party."

15. At a second meeting with General Ji and Liu on August 13, 1996, General Ji told Respondent that although Respondent now knew who General Ji was, Respondent should still call General Ji by his alias because his name was "sensitive." At this meeting, General Ji also told Respondent that he would wire \$300,000 to Liu's account which she should then wire to Respondent, adding that "he needed a 'receipt' or 'report' to 'give to the organization.'" After General Ji left the meeting, Respondent expressed concerns to Liu about getting involved with the General's money.

16. The next morning, August 14, 1996, Liu called Respondent, and indicated that she had transferred funds to his Hong Kong bank account. Respondent asked for a meeting with Liu. At their meeting later that day, Respondent continued to raise concerns about getting the money

from General Ji rather than from Liu herself, and reminded Liu that she had said in July that she would give Respondent \$300,000 for business deals. In response, Liu told Respondent that he could use the \$300,000 she had transferred to his Hong Kong account to invest in their and Respondent's businesses, to take care of General Ji's son in the United States, and to make contributions to the President and the Democratic Party. When Respondent received and accepted the funds, he understood that General Ji and Liu expected at least some portion of it to be used for political contributions.

17. On August 15, 1996, \$80,000 of the \$300,000 transferred by Liu to Respondent's Hong Kong bank account was transferred to Respondent's California Federal Bank account in Los Angeles. On August 23, 1996, a Chinese business wired \$100,000 to this account. Respondent transferred \$30,000 from his California Federal Bank account to his General Bank account in Los Angeles, \$20,000 on August 19, 1996 and \$10,000 on August 27, 1996. On August 29, 1996, another Chinese business wired \$100,000 to Respondent's General Bank account. Respondent made contributions from his General Bank account to the DNC on August 18, 1996 (\$20,000), August 28, 1996 (\$10,000) and August 29, 1996 (\$5,000), which the DNC deposited in its federal account. At least \$20,000 of the \$300,000 transferred to Respondent by General Ji and Liu can be traced to Respondent's contributions to the DNC during this time-period. Respondent also made a \$1,000 contribution to the Committee for Loretta Sanchez on August 28, 1996, a \$2,000 contribution to the Kerry Committee and \$8,000 in reimbursements for conduit contributions to the Kerry Committee in 1996. In addition to making political contributions, Respondent used the money received from General Ji and Liu for himself and to help General Ji's son, who Respondent hired to work part-time at AISI.

V. 1. Respondent knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f by making contributions in the names of others to Clinton/Gore '96 and the Kerry Committee which exceeded the contribution limits.

2. Respondent violated 2 U.S.C. § 441a(a)(1)(B) by making contributions to the DNC's federal account in 1996 which exceeded \$20,000.

3. Respondent violated 2 U.S.C. § 441a(a)(3) by making total federal contributions aggregating in excess of \$25,000 during calendar year 1996.

4. The Commission concludes that Respondent has accepted and received foreign funds for contributions in violation of 2 U.S.C. § 441e(a). While Respondent maintains that all the money he received was reportable as income and he has testified under oath to this effect before the House Committee on Government Reform and Oversight, for purposes of reaching a resolution of these proceedings, Respondent agrees not to contest the Commission's finding.

VI. 1. Respondent waives any and all claims he may have to the refund of the \$20,000 in contributions to the Clinton/Gore '96 Primary Committee that he reimbursed. Respondent further agrees to advise the Clinton/Gore '96 Primary Committee, in writing, of this waiver and to direct them to disgorge to the U.S. Treasury the \$20,000.

2. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Twenty-One Thousand (\$21,000), pursuant to 2 U.S.C. §437g(a)(5)(A). In partial satisfaction of this civil penalty, the Commission will apply the waived refund of \$20,000 from the Clinton/Gore '96 Primary Committee against the \$21,000 civil penalty.

VII. The Commission would ordinarily seek a civil penalty equal to 200% of the amount in violation for knowing and willful violations and 100% of the amount in violation for

non-knowing and willful violations, for a total of \$127,000, for this type of activity, but the Commission has agreed to accept a \$21,000 civil penalty in settlement of this matter for the following reasons:

1. Respondent has pled guilty to two counts of conspiracy to violate the Federal Election Campaign Act, in violation of 2 U.S.C. §§ 441a and 441f and 18 U.S.C. § 371; one count of tax evasion in violation of 26 U.S.C. § 7201 and one count of bank fraud in violation of 18 U.S.C. § 1344. Respondent was sentenced to serve five years probation and to perform 3,000 hours of community service.

2. Respondent's company, Automated Intelligent Systems, Inc., is defunct.

3. As a representation material to the Commission's agreement to substantially reduce the level of civil penalty that the Commission would ordinarily accept for this type of activity, by signing this agreement Respondent represents that he has no assets or income out of which he could pay a significant monetary penalty, and that he has undisputed debts in excess of \_\_\_\_\_ to the Internal Revenue Service, in excess of \_\_\_\_\_ to the California Franchise Tax Board, and in excess of \$200,000 to other creditors.

VIII. Respondent undertakes and agrees that at the Commission's written request, on reasonable notice and without service of a subpoena, Respondent will produce documents to the Commission staff, make himself available for depositions and interviews by the Commission staff, and shall testify under oath at any Commission deposition and at any judicial proceedings brought by the Commission as a result of its investigation in this and other related matters under review.

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance

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with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.


X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.


FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

8/25/00  
Date

FOR THE RESPONDENT:

  
Chien Chuen "Johnny" Chung  
Respondent

8-18-2000  
Date

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