

1 PHILLIP A. TALBERT
Acting United States Attorney
2 MATTHEW M. YELOVICH
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
Facsimile: (916) 554-2900
5

6 Attorneys for Plaintiff
United States of America
7

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8
9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

CASE NO.

12 Plaintiff,

2:16 - CR - 220 JAM

13 v.

14 JAI AING CHEN,

15 Defendant.
16

17 INFORMATION
18

19 COUNT ONE: [18 U.S.C. § 371 – Conspiracy to Commit Wire Fraud]

20 The United States Attorney charges: T H A T

21 JAI AING CHEN,

22 defendant herein, as follows:

23 I. INTRODUCTION

24 At all times relevant to this Information:

25 1. Sunrise Shoes and Pedorthic Service Corporation (“Sunrise”) was an orthotic shoe store
26 and manufacturer, located in Sacramento, in the State and Eastern District of California.

27 2. JAI AING CHEN was an employee of Sunrise.

28 3. Conspirator 1 was a physician at the Department of Veterans Affairs (“VA”) Medical

Center in Mather, in the State and Eastern District of California.

4. Conspirator 2 was an officer at Sunrise.

5. Under the Buy American Act, 41 U.S.C. § 8301 et seq., the United States government may only acquire products made in the United States in its purchasing decisions, with limited exceptions.

6. Under the Trade Agreements Act, 19 U.S.C. § 2501 et seq., the VA may only acquire end products or services made in the United States or certain designated countries. China is not a designated country.

II. THE CONSPIRACY

7. From a date unknown, but no later than in or about September 2012, through in or about February 2015, in the State and Eastern District of California, and elsewhere, JAI AING CHEN, defendant herein, did knowingly and intentionally agree, combine, and conspire with Conspirators 1 and 2, and other persons both known and unknown, to execute, through the use of wire communications and signals in interstate commerce, a material scheme to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations, promises, and the concealment of material facts, in violation of Title 18, United States Code, Section 1343.

8. It was an object of the conspiracy for defendant CHEN and Conspirators 1 and 2 to obtain for Sunrise a national contract with the VA, namely, Therapeutic Footwear Solicitation VA797N-12-R-0012, worth approximately \$11 million per year for five years, by making false statements and using material omissions to create the false impression that Sunrise's products were manufactured in the United States, and were in compliance with the Buy American Act and the Trade Agreements Act.

III. MANNER AND MEANS

In furtherance of the conspiracy, CHEN, CONSPIRATOR 1, AND CONSPIRATOR 2 employed the following ways and means, among others:

9. On three occasions, CHEN certified with the Federal System for Award Management, part of the General Services Administration of the federal government, that, for purposes of Trade Agreements Act and Buy American Act compliance, Sunrise's products were manufactured in China. In

1 or about January 2013, CHEN began submitting the same certification forms without any country of
2 origin or manufacture for Sunrise products—omitting China where previously he had marked China, for
3 purposes of both the Trade Agreements Act and Buy American Act compliance.

4 10. In September 2012, Sunrise submitted its bid for Therapeutic Footwear Solicitation
5 VA797N-12-R-0012, worth approximately \$11 million per year for five years. In response to this bid,
6 in April 2013, the VA rejected four of the proposed shoe offers and requested more information, namely
7 the country of manufacture, for five other submitted Sunrise shoe models.

8 11. In response to this request for information from a VA contracting official, CHEN and
9 Conspirators 1 and 2 discussed a strategy on how to assure the VA that Sunrise's products complied
10 with the Buy American Act and Trade Agreements Act.

11 12. As a part of those communications, CHEN promulgated a strategy to Conspirators 1 and
12 2 presenting that Sunrise was in fact in compliance, when it was not in compliance.

13 13. As a part of those communications, CHEN circulated a draft letter to Conspirators 1 and
14 2 for their review and approval, which he planned on sending to the VA regarding Sunrise's compliance.

15 14. After discussing the letter to the VA with Conspirator 1, CHEN and Conspirator 2
16 submitted a letter signed by CHEN that gave the false impression that Sunrise products were
17 manufactured in compliance with the Buy American Act and Trade Agreements Act when that was not
18 true. CHEN and Conspirator 2 also simultaneously submitted a signed certification that five of
19 Sunrise's submitted shoe products were manufactured in whole or mostly in the United States when that
20 was not true.

21 IV. OVERT ACTS

22
23 In furtherance of the conspiracy, and to achieve the objects thereof, CHEN and Conspirators 1
24 and 2, and others known and unknown, performed, among others, the following overt acts in the State
25 and Eastern District of California and elsewhere:

26 15. On or about September 28, 2012, Conspirator 2 submitted Sunrise's offer for Therapeutic
27 Footwear Solicitation VA797N-12-R-0012.

28 16. On or about January 13, 2013, CHEN submitted a certification in the Federal System for

1 Award Management omitting any information concerning the manufacturing in China of Sunrise's
2 products, leaving blank fields for Trade Agreements Act and Buy American Act information.

3 17. On or about January 25, 2013, CHEN emailed the VA National Contracting Officer,
4 copying Conspirator 2, regarding Therapeutic Footwear Solicitation VA797N-12-R-0012, and stated,
5 among other things, the following: "As a related matter, I am very pleased to inform you that the
6 product content in our therapeutic footwear can now proudly be labeled as; Made in America."

7 18. On or about April 29, 2013, CHEN emailed Conspirators 1 and 2, attaching a letter from
8 the VA regarding the country of manufacture for five of its products being submitted for the VA's
9 national contract solicitation VA797N-12-R-0012, and soliciting Conspirator 1's "help to draft a
10 technical response to describe the offer products."

11 19. On or about April 29, 2013, CHEN emailed Conspirators 1 and 2 a slideshow titled "The
12 Buy American Act," while stating in the body of the email, "Here is the buy American Act information."

13 20. On or about April 30, 2013, Conspirator 2 emailed to CHEN and Conspirator 1 a draft
14 letter to the VA responding to the VA's April 29, 2013 letter.

15 21. On or about April 30, 2013, Conspirator 1 emailed Conspirator 2, "RE: VA Response,"
16 stating, among other things, that "[t]he letter still needs work. I will continue with it tonight."

17 22. On or about May 2, 2013, Conspirator 2 signed and certified a form from the VA stating
18 that the country of manufacture for five of the Sunrise products offered for the VA's national contract
19 (VA797N-12-R-0012) was "USA."

20 23. On or about May 2, 2013, CHEN signed a letter on Sunrise letterhead to the VA, "Re:
21 Therapeutic Footwear Solicitation VA797N-12-R-0012," describing Sunrise's manufacturing process
22 and compliance with the Buy American Act.

23 24. On or about May 2, 2013, CHEN emailed the VA National Contracting Officer, copying
24 Conspirator 2, attaching, inter alia, CHEN's signed letter explaining the Sunrise manufacturing process
25 and Conspirator 2's certification that five of Sunrise's products offered for the VA national contract
26 (VA797N-12-R-0012) were manufactured in the United States.

27 25. On or about May 10, 2013, Conspirator 1 emailed Conspirator 2 with a draft response
28 meant for CHEN to send to the VA regarding extended initial pricing for the Sunrise bid on the national

1 contract (VA797N-12-R-0012).

2 26. On or about May 10, 2013, CHEN sent Conspirator 1's suggested email to the VA
3 national contracting official regarding extended initial pricing for the Sunrise bid on the national
4 contract.

5 27. On or about September 26, 2013, Conspirator 2 emailed a manufacturer in China, stating,
6 among other things, "Just in news. We are in the final leg of the VA therapeutic footwear proposal. We
7 are looking at an estimated quantity of 70,000 pairs per year for five years. . . . We just need to make
8 sure the price is firm so we can build up the other product lines with the Federal government."

9 28. On or about September 29, 2013, Conspirator 1 drafted an email to the VA for CHEN to
10 send regarding Sunrise's bid on VA797N-12-R-0012, stating to CHEN "[p]lease go word for word with
11 this. Neatly format. No other changes should be needed."

12 All in violation of Title 18, United States Code, Section 371.

13 Dated: 11/21/2016

PHILLIP A. TALBERT
Acting United States Attorney

14
15 By:


MATTHEW M. VELOVICH
Assistant United States Attorney

United States v. JAI AING CHEN

Penalties for Information

COUNT 1: **JAI AING CHEN**

VIOLATION: 18 U.S.C. § 371 – Conspiracy to Commit Wire Fraud

PENALTIES: A maximum of up to 5 years in prison; or
 Fine of up to \$250,000; or both fine and imprisonment
 Maximum of up to 3 years of supervised release

SPECIAL ASSESSMENT: \$100