

SEALED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 14-60195-CR-Bloom-Valle

18 U.S.C. § 371
22 U.S.C. § 2778

UNITED STATES OF AMERICA

vs.

**WENXIA MAN,
a/k/a "Wency Man," and
XINSHENG ZHANG,**

Defendants.

FILED BY _____	D.C.
AUG 21 2014	
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. FT. LAUD.	

INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Defendants

1. **WENXIA MAN, a/k/a "Wency Man" ("MAN")**, a lawful permanent resident of San Diego, California, doing business as AFM Microelectronics, Inc., was a "U.S. Person" as defined in Title 22, Code of Federal Regulations, Section 120.15.

2. **XINSHENG ZHANG ("ZHANG")** was a resident of the People's Republic of China acting as an official agent for the procurement of arms, munitions, implements of war, and defense articles on behalf of that country.

3. **MAN and ZHANG** worked together to purchase in the United States an MQ-9 Reaper Unmanned Aerial Vehicle, F-135 engines, and other military and defense articles and technical data related thereto for delivery to the People's Republic of China.

The Statutes and Regulations

4. In furtherance of the security and foreign policy interests of the United States, the United States regulates and restricts the export of arms, munitions, implements of war, and defense articles, pursuant to the Arms Export Control Act, Title 22, United States Code, Section 2778.

5. The regulations which govern such exports are entitled the International Traffic in Arms Regulations (“ITAR”), Title 22, Code of Federal Regulations, Sections 120-130.

6. The ITAR contains a list of defense articles and defense services which are subject to control by these regulations. The list is called the United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1.

7. No defense articles or defense services may be exported or otherwise transferred from the United States to a foreign country without a license or written approval from the United States Department of State, Directorate of Defense Trade Controls. The ITAR also prohibits re-exports, transfers, transshipments, and diversions from foreign countries of previously-exported defense articles or services without United States Department of State authorization.

8. The General Atomics MQ-9 Reaper Unmanned Aerial Vehicle was classified as a defense article covered by Category VIII(a) of the United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1 at the time of the relevant conduct described herein.

9. The Pratt and Whitney F-135 engine (F135-PW-100) is used on the F-35 Strike Fighter and was classified as a defense article covered by Category VIII(b) of the United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1 at the time of the relevant conduct described herein, and was subsequently re-classified for control under Category XIX(a).

10. The Pratt and Whitney F119 turbofan engine (F119-PW-100) is used on the F-22 Raptor Jet Fighter and was classified as a defense article covered by Category VIII(b) of the

United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1 at the time of the relevant conduct described herein, and was subsequently re-classified for control under Category XIX(a).

11. The General Electric F110 turbofan engine (F110-GE-132) is designed to provide enhanced combat performance and was classified as a defense article covered by Category VIII(b) of the United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1 at the time of the relevant conduct herein, and was subsequently re-classified for control under Category XIX(a).

12. The technical data related to reach of the defense articles set forth in paragraphs 9 through 12 above was controlled by Category VIII(i) of the United States Munitions List, Title 22, Code of Federal Regulations, Section 121.1, at the time of the relevant conduct herein, and was subsequently re-classified for control under Category XIX.

13. Since 1990, the United States has maintained an arms embargo against the People's Republic of China that prohibits the export, re-export, or transfer of any defense article to the People's Republic of China. It is the policy of the United States and the United States Department of State to deny license applications and any other written requests or approvals for the export, re-export, or transfer to the People's Republic of China of defense articles on the United States Munitions List, Title 22, Code of Federal Regulations, Section 126.1(a); 54 Federal Register 24539; 58 Federal Register 39280; and Public Law 101-249, Section 9901(a)(9)(A).

Brokering Activities Defined

14. "Broker" is defined by the ITAR as any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales, or transfers of defense articles or defense services in return for a fee, commission, or other consideration. Title 22, Code of Federal

Regulations, Section 129.2(a).

15. “Brokering activities” as used in the ITAR means “acting as a broker.” Title 22, Code of Federal Regulations, Section 129.2(b).

16. Any U.S. person, wherever located, who engages in the business of brokering activities with respect to the transfer of any defense article or defense service is required to register with the United States Department of State, Directorate of Defense Trade Controls. Title 22, Code of Federal Regulations, Section 129.3.

17. Title 22, Code of Federal Regulations, Section 120.16, defines “U.S. Person” as a person who is a lawful permanent resident as defined by Title 8, United States Code, Section 1101(a)(20), or any corporation, business association, partnership, society, trust, or any other entity, organization, or group that is incorporated to do business in the United States.

18. No brokering activities or brokering proposals involving the People’s Republic of China may be carried out by any U.S. person without first obtaining the written permission of the United States Department of State, Directorate of Defense Trade Controls. Title 22, Code of Federal Regulations, Sections 127.1(a)(6) and 129.5(b).

19. At no time material to this Indictment did **MAN** register with the United States Department of State, Directorate of Defense Trade Controls, to engage in the business of brokering as required by Title 22, Code of Federal Regulations, Section 129.3.

20. Title 22, Code of Federal Regulations, Section 120.17, provides that an export consists of (1) sending or taking a defense article out of the United States in any manner or (2) transferring registration, control, or ownership to a foreign person of any aircraft whether in the United States or abroad.

21. Title 22, Code of Federal Regulations, Section 120.16, defines “foreign person” to

include any foreign corporation or business association, trust, partnership, or any other entity that is not incorporated or organized to do business in the United States.

COUNT 1

1. Paragraphs 1 through 21 of the General Allegations above are restated and re-alleged as if fully set forth herein.

2. From on or about March 1, 2011, and continuing until at least June 13, 2013, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

**WENXIA MAN,
a/k/a “Wency Man,”**

did knowingly and willfully engage in the business of brokering activities involving the People’s Republic of China in negotiating and arranging contracts, purchases, sales, and transfers of defense articles, that is, the General Electric F110 Turbofan engine (F110–GE-132); the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles, in return for a fee, commission, and other consideration, without first registering with the United States Department of State, Directorate of Defense Trade Controls, and obtaining a license or written approval from the United States Department of State, Directorate of Defense Trade Controls, in violation of Title 22, United States Code, Section 2778, and Title 22, Code of Federal Regulations, Sections 127.1(a)(6), 129.2(a), 129.2(b), and 129.5(b).

COUNT 2

1. Paragraphs 1 through 21 of the General Allegations above are restated and re-alleged as if fully set forth herein.

2. Beginning on or about March 1, 2011, the exact date being unknown to the Grand Jury, and continuing until at least June 13, 2013, in Broward County, in the Southern District of Florida, and elsewhere, the defendants,

**WENXIA MAN,
a/k/a “Wency Man,” and
XINSHENG ZHANG,**

did knowingly and willfully combine, conspire, confederate, and agree with each other and with other persons known and unknown to the Grand Jury, to commit offenses against the United States, that is, to export and cause the export of defense articles, without having first obtained a license or written approval from the United States Department of State, Directorate of Defense Trade Controls, in violation of Title 22, United States Code, Section 2778, and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1.

Objects of the Conspiracy

3. It was an object of the conspiracy to obtain, purchase, and export defense articles, that is, the General Electric F110 turbofan engine (F110-GE-132) designed and used only on military fighter aircraft; the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles in the United States and export them to the People’s Republic of China without obtaining the necessary export license or written approval from the United States Department of State, Directorate of Defense Trade Controls.

4. It was further an object of the conspiracy to use the technical data for each of the aforementioned defense articles for the purpose of reverse-engineering and manufacturing duplicates of the aforementioned defense articles in the People’s Republic of China.

Manner and Means

5. In furtherance of the conspiracy and to effect the objects thereof, the following manner and means, among others, were used:

a. On behalf of the People's Republic of China, **MAN** and **ZHANG** would solicit price quotations for the General Electric F110 turbofan engine (F110-GE-132) designed and used only on military fighter aircraft; the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles, from persons they believed to be vendors of military equipment in the United States.

b. **MAN**, **ZHANG**, and persons known to the Grand Jury would discuss the transshipment of the General Electric F110 turbofan engine (F110-GE-132) designed and used only on military fighter aircraft; the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles, through third countries in order to conceal the People's Republic of China as the ultimate destination.

c. **MAN**, **ZHANG**, and persons known to the Grand Jury would discuss the transshipment of the General Electric F110 turbofan engine (F110-GE-132) designed and used only on military fighter aircraft; the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles, through third countries to avoid the United States arms

embargo against the People's Republic of China.

d. **MAN** and **ZHANG** would negotiate the purchase price and payments for the export of the General Electric F110 turbofan engine (F110-GE-132) designed and used only on military fighter aircraft; the Pratt and Whitney F119 turbofan engine (F119-PW-100) used on the F-22 Raptor Jet Fighter; the Pratt and Whitney F-135 engine used on the F-35 Strike Fighter; the General Atomics MQ-9 Reaper Unmanned Aerial Vehicle; and technical data for each of the aforementioned defense articles, for delivery to the People's Republic of China.

e. **MAN** and **ZHANG** would undertake these activities knowing that a license or written approval would not be obtained from the United States Department of State, Directorate of Defense Trade Controls.

Overt Acts

6. In furtherance of the conspiracy and to effect the objects thereof, there were committed, in the Southern District of Florida and elsewhere, at least one of the following overt acts, among others:

a. On March 1, 2011, **MAN** sent an email to a person known to the Grand Jury stating that she had a customer who was looking for three sets of aircraft engines to be exported from the United States.

b. On or about September 14, 2012, **MAN** sent an email to a person known to the Grand Jury stating that her customer still needed the aircraft engines and wanted to know if they could be shipped to Hong Kong.

c. On September 18, 2012, **MAN** sent an email to a person known to the Grand Jury stating that the buyer is real and that the money is from the government, not a private party, but that they needed to make sure the seller was not from the Federal Bureau of Investigation ("FBI")

because sometimes an FBI “officer” disguises himself as a seller to detect spy activities.

d. On September 20, 2012, **MAN** engaged in a telephone conversation with a Department of Homeland Security undercover agent (“DHS UC”) who was posing as a United States arms supplier in which **MAN** stated that she was seeking F-119, F-110, F-132, and F135 fighter jet engines. **MAN** stated that the engines were for the government of China, it was illegal to export these engine models to China, and that was why they needed “us” to get them.

e. On September 20, 2012, **MAN** sent an email to a DHS UC as a follow up to the telephone conversation on this same date and advised that her customer was looking for two each of engine models F135-PW-600, F119-PW-100, and F-110-GE-132.

f. On September 21, 2012, **MAN** engaged in a telephone call with a DHS UC to confirm receipt of the email she had sent with the engine models and expressed the need to be extra cautious when trying to obtain the engines.

g. On October 2, 2012, **MAN** engaged in a telephone call with a DHS UC and discussed the price for the F110-GE-132 engines. **MAN** stated that she had spoken with her contact in China and that they could communicate directly with her contact. **MAN** further stated that her contact was in the aviation business and had previously made similar purchases from Russia. **MAN** added that they must have an avenue to export the engines through a third country such as Korea or Israel.

h. On October 7, 2012, **MAN** engaged in a telephone conversation with a DHS UC and stated that she would email the contact information for her contact in China so they could all communicate directly.

i. On October 11, 2012, **MAN** sent an email to **ZHANG** and a DHS UC providing the contact information for **ZHANG** so they could speak directly.

j. On October 15, 2012, **MAN** engaged in a telephone conversation with a DHS UC and advised that she had spoken with her contact in China and they had technical questions about the F110-GE-132 engines. **MAN** also stated that her buyer had asked if it were possible to get the technical data and building plans for the F119 and F135 engines because that would help China develop them.

k. On October 17, 2012, **ZHANG** engaged in a telephone conversation with a DHS UC, during which **ZHANG** stated that he had spoken with **MAN** about the engines and that he wanted new engines. **ZHANG** suggested that the engines be shipped to China through Israel because Israel has a good relationship with China and the United States.

l. On October 23, 2012, **MAN** engaged in a telephone conversation with a DHS UC and stated that she had spoken with **ZHANG** and that the engines must be new, not refurbished. **MAN** further explained that **ZHANG** works for the Chinese military-industrial complex and is like a “technology spy” that procures information from Russia and other places so that China can obtain sophisticated technology without having to conduct its own research.

m. On October 31, 2012, **MAN** engaged in a telephone conversation with a DHS UC and discussed the need to obtain new engines and the risk involved because the United States would not sell them to China. **MAN** admitted that what they were doing was illegal and acknowledged that a large deposit would be required because of the risk. **MAN** stated that **ZHANG** had no problem getting the money because he represented China and was a “technology spy” with access to funds required to purchase the engines. **MAN** added that they should not tell anyone that the engines were to be sent to China because the “Feds” are catching a lot of Chinese engaged in similar activities.

n. On November 2, 2012, **ZHANG** engaged in a telephone conversation with a DHS

UC, during which **ZHANG** stated that he needed two F110-132 engines trans-shipped through a third country to China. **ZHANG** stated that he would have to check the specifics of the shipping methods and verify that they were secure. **ZHANG** also asked about getting technical data for the F110, F119, and F135 engines.

o. On November 7, 2012, **ZHANG** engaged in a telephone conversation with a DHS UC and advised that the purchase of the F110-132 engines had been approved by his leadership and that they also wanted the technical data for the engines.

p. On December 4, 2012, **ZHANG** engaged in a telephone conversation with a DHS UC and reiterated that he needed the F110-GE-132 engines as well as the three-dimensional structural diagrams of the F-22 and F-35 aircraft. **ZHANG** added that the drawings had to be included in the deal. **ZHANG** also asked about purchasing unmanned aerial vehicles or drones.

q. On February 4, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC and further discussed the possibility of obtaining drones. **ZHANG** also discussed the MQ-9 Reaper and requested that information on the MQ-9 Reaper be sent to him so he could let his experts review it.

r. On February 19, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC and asked if it were possible to obtain everything, i.e., the unmanned aerial vehicle, ground control station and design specifications, for the MQ-9 Reaper. **ZHANG** further asked if it was illegal to export this to China and stated that they would have to find a way to do it even though it was illegal.

s. On March 13, 2013, **ZHANG** sent an email written in Chinese to a DHS UC asking for information about the MQ-9 Reaper.

t. On March 13, 2013, **MAN** engaged in a telephone conversation with a DHS UC

and translated the email from **ZHANG** into English. **MAN** explained that **ZHANG** wanted to know the operating system and aircraft control system for the MQ-9 Reaper and that **ZHANG** wanted both the unmanned vehicle itself and the technical design data.

u. On March 13, 2013, **MAN** engaged in a telephone conversation with a DHS agent and stated that she had spoken with **ZHANG** directly and clarified that **ZHANG** wanted the schematic diagram from the design software of the MQ-9 Reaper to prove that they could get the design software and that **ZHANG** wanted the entire package, i.e., hardware, aircraft design software, and control system as soon as possible.

v. On March 20, 2013, **MAN** engaged in a telephone conversation with a DHS UC and left a voice message stating that she had received the emailed photo of the MQ-9 Reaper and that **ZHANG** wanted the entire package.

w. On March 22, 2013, **MAN** engaged in a telephone conversation with a DHS UC and advised that she had forwarded photos of the MQ-9 Reaper to **ZHANG** and that **ZHANG** needed the design software because trying to reverse engineer the aircraft would be too difficult without it.

x. On May 16, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC and discussed the MQ-9 Reaper and the information that **ZHANG** had received in an email from a DHS UC. **ZHANG** restated that he needed the design specifications and control mechanism also, and that they needed to prove to his superiors that they could get these items.

y. On May 16, 2013, **MAN** engaged in a telephone conversation with a DHS UC and discussed the email that had been sent by a DHS UC and the conversation with **ZHANG** about the MQ-9 Reaper.

z. On May 21, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC

and advised that he had submitted the information on the MQ-9 Reaper to his superiors and would forward a list of their needs to the DHS UC.

aa. On May 31, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC about the MQ-9 Reaper and stated that they should no longer say the name of the vehicle over the telephone. **ZHANG** asked if the DHS UC was confident that the aircraft, engine, and technical information could be obtained and shipped to China. **ZHANG** and the DHS UC discussed transshipping the MQ-9 Reaper through another country because it could not be sent directly to China, and that, due to the risk involved, the DHS UC would need to charge fifty million dollars (\$50,000,000), which would include the shipping costs. **ZHANG** stated that he would email questions regarding the purchase of the aircraft.

bb. On June 1, 2013, **ZHANG** sent an email to a DHS UC advising that they would send the quoted purchase price to a higher level for approval and requesting additional information about how the deal would be accomplished, the delivery of the items, and how to settle the account. **ZHANG** further stated that they needed to make sure that there were no problems with the technical data and would need the total design package, testing machine, programming, ground control station designs, instruction manual, and targeting system.

cc. On June 3, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC, during which **ZHANG** asked if his email had been received and how could they prove that the deal would go through. **ZHANG** worried about making a deposit until he was sure that all of the items could be obtained and asked if it were possible to inspect the items in the United States.

dd. On June 12, 2013, **ZHANG** engaged in a telephone conversation with a DHS UC and stated that the price had been sent up for approval and that at most there might be a three-to-five million dollar (\$3,000,000-\$5,000,000) shortfall on the fifty million dollar

(\$50,000,000) price. **ZHANG** stated that they would have to prove that the items could be obtained and delivered before he could make a down-payment because their concern was that the company was not large enough to handle the procurement and transfer of such sensitive material. **ZHANG** expressed concern about news reports of United States telephone and email wiretaps and discussed the sensitivity of the needed items and obtaining them. **ZHANG** asked the DHS UC to call **MAN** and have **MAN** call **ZHANG**.

ee. On June 12, 2013, **MAN** engaged in a telephone conversation with a DHS UC and discussed the concerns raised by **ZHANG**. **MAN** agreed to call **ZHANG** as **ZHANG** had requested.

ff. On June 12, 2013, **MAN** called a DHS UC and stated that she had talked to **ZHANG** and stated that she had informed **ZHANG** that she could use her company in California to sponsor **ZHANG** and one of his engineers to come to the United States and examine the design specification materials even though it would be illegal for them to see or possess the items. **MAN** stated that **ZHANG** was going to discuss this plan with his superiors.

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

A TRUE BILL.

FOREPERSON


WIFREDO A. FERRER
UNITED STATES ATTORNEY


MICHAEL WALLEISA
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

WENXIA MAN, a/k/a "Wency Man," and
XINSHENG ZHANG,

Defendants.

_____ /

Case Information:

Court Division: (Select One)

Miami _____ Key West _____
FTL X WPB _____ FTP _____

New Defendant(s) _____ Yes X No
Number of New Defendants _____
Total number of counts _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 10 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)		(Check only one)
I	0 to 5 days _____	Petty _____
II	6 to 10 days <u>X</u>	Minor _____
III	11 to 20 days _____	Misdem. _____
IV	21 to 60 days _____	Felony <u>X</u>
V	61 days and over _____	

6. Has this case been previously filed in this District Court? NO (Yes or No)

If yes:
Judge: _____ Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? NO

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the District of _____

Is this a potential death penalty case? _____ (Yes or No)

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? _____ Yes X No


MICHAEL G. WALLEISA
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No./Court 539570

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: WENXIA MAN, a/k/a "Wency Man"

Case No: _____

Count: 1

Engaging in Illegal Brokering Activities

Title 22, United States Code, Section 2778

* Max. Penalty: 20 years' imprisonment, \$1,000,000 fine, 3 years' supervised release

Count: 2

Conspiring to Engage in Illegal Brokering Activities

Title 18, United States Code, Section 371

*Max. Penalty: 5 years' imprisonment, \$250,000 fine, 3 years' supervised release

Count:

*Max. Penalty:

Count:

*Max. Penalty:

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms or forfeitures that may be applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: XINSHENG ZHANG

Case No: _____

Count: 2

Conspiring to Engage in Illegal Brokering Activities

Title 18, United States Code, Section 371

* Max. Penalty: 5 years' imprisonment, \$250,00.00 fine, 3 years' supervised release

Count:

*Max. Penalty:

Count:

*Max. Penalty:

Count:

*Max. Penalty:

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms or forfeitures that may be applicable.