

38 No. 1 Int'l Enforcement L. Rep. 38

International Enforcement Law Reporter

January 1-January 31, 2022

XIII. International Intellectual Property Enforcement and U.S. China Initiative

**HARVARD PROFESSOR LIEBER CONVICTED FOR FALSE
STATEMENTS AND TAX OFFENSES FOR CHINA LINKS**

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On December 21, 2021, a jury in U.S. District Court in Boston, Massachusetts convicted the former chair of Harvard University's Chemistry and Chemical Biology Department relating to false statements to federal authorities concerning his affiliation with the People's Republic of China's Thousand Talents Program and the Wuhan University of Technology (WUT) in Wuhan China, as well as failing to report income he received from WUT and bank accounts in the PRC.¹ The prosecution arises out of the U.S. Department of Justice's China Initiative.²

Lieber Prosecution

A jury convicted Dr. Charles Lieber, 62, following a six-day jury trial of two counts of making false statements to federal authorities, two counts of making and subscribing a false income tax return, and two counts of failing to file reports of foreign bank and financial accounts (FBAR) with the Internal Revenue Service (IRS). Lieber will be sentenced at a later date. In June 2020, Lieber was indicted. In July 2020, a superseding indictment was issued.

Lieber worked as the Principal Investigator of the Lieber Research Group at Harvard University, which received more than \$15 million in federal research grants between 2008 and 2019. Without the knowledge of Harvard University, Lieber served as a “Strategic Scientist” at WUT. Later, he participated in the PRC's Thousand Talents Plant from at least 2012 through 2015. The Plan is one of the talent recruitment mechanisms whereby the PRC attracts, recruits, and cultivates high-level scientific talent in support of the PRC's scientific development, economic prosperity, and national security.

Pursuant to Lieber's three-year Thousand Talents' contract, WUT paid him a salary of up to \$50,000 per month, living expenses of up to \$150,000 and awarded him more than \$1.5 million to establish

a research *39 lab at WUT. In 2018 and 2019, Lieber made false statements to federal authorities concerning his participation in the Thousand Talents Plan and his affiliation with WUT.³

In tax years 2013 and 2014, Lieber earned income from WUT by way of salary and other payments pursuant to the Strategic Scientist and Thousand Talents Contracts. He allegedly did not disclose the compensation on his federal income tax returns. In 2012, during a trip to Wuhan, Lieber opened a bank account at a Chinese bank. Between at least 2013 and 2015, WHUT deposited part of Lieber's salary into that account. U.S. taxpayers must report the existence of any foreign bank account that holds more than \$10,000 at any time during a given year by the filing of a FinCEN 114a report (also known as the Foreign Bank Account Report--FBAR) with the IRS. Lieber was found guilty of failing to file FBARs for the years 2014 and 2015.

For making false statements, Lieber faces the potential of serving a sentence of up to five years in prison, three years of supervised release, and a fine of \$250,000. For making and signing false income tax returns, Lieber faces a sentence of up to three years in prison, one year of supervised release, and a fine of \$100,000. For failing to file an FBAR, Lieber faces a potential sentence of up to five years in prison, three years of supervised release, and a fine of \$250,000.⁴

The DOJ China Initiative

The prosecution of Lieber arose from the DOJ's China Initiative. The program is part of the strategic priority of countering Chinese national security threats and reinforces the President's national security strategy. The Trump Administration started the initiative in response to findings by the Administration with respect to China's practices. In March 2018, the Office of the U.S. Trade Representative announced the results of an investigation of China's trade practices under Section 301 of the Trade Act of 1974. It found, inter alia, that a combination of China's practices are unreasonable, including its outbound investment policies and sponsorship of unauthorized computer intrusions, and that “[a] range of tools may be appropriate to address these serious matters.”⁵

In June 2018, the White House Office of Trade and Manufacturing Policy released a report on “How China's Economic Aggression Threatens the Technologies and Intellectual Property of the United States and the World.” The report details the two main strategies and various acts, policies, and practices Chinese industrial policy through its Made in China 2025 plan employs in trying to acquire the intellectual property and technologies of the world, including the emerging high-technology.

The China Initiative identifies and prosecutes persons engaged in trade secret theft, hacking, and economic espionage. The Initiative aims to protect critical U.S. infrastructure against external

threats through foreign direct investment and supply chain compromises, and fighting covert efforts to influence U.S. public and policymakers without proper transparency.

The DOJ's National Security Division (NSD) leads the China Initiative. Steering committee members include the U.S. attorney, Northern District of California; the Assistant Attorney General, Criminal Division; the Executive Assistant Director, National Security Branch, FBI; the U.S. Attorney, Northern District of Texas; the U.S. Attorney, Eastern District of New York; the U.S. Attorney, District of Massachusetts; and the U.S. Attorney, Northern District of Alabama.⁶

Among the goals under the Initiative are the following: develop an enforcement strategy concerning nontraditional collectors (e.g., researchers in labs, universities, and the defense industrial base) that are coopted into transferring technology contrary to U.S. interests; educate colleges and universities about potential threats to academic freedom and open discourse from influence efforts on campus; identify priority trade secret theft cases, ensure that investigations are sufficiently resourced, and work to bring them to fruition in a timely manner and according to the facts and applicable law; apply the Foreign Agents Registration Act to unregistered agents seeking to advance China's political agenda bringing enforcement actions when appropriate; furnish the country's U.S. Attorneys with intelligence and materials they can use to raise awareness of these threats within their Districts and support their outreach efforts; implement the Foreign Investment Risk Review Modernization Act (FIRRMA) for DOJ (including by working with Treasury to ***40** develop regulations under the statute and prepare for increased workflow); identify opportunities to better address supply chain threats, especially ones impacting the telecommunications sector, prior to the transition to 5G networks; identify FCPA cases involving Chinese companies that compete with U.S. businesses; increase efforts to improve Chinese responses to requests under the Mutual Legal Assistance Agreement (MLAA) with the U.S.; and evaluate whether additional legislative and administrative authorities are needed to protect U.S. national assets from foreign economic aggression.⁷

Among the prosecutions of academics include a university researcher sentenced to prison on May 14, 2021, for lying on grant applications to develop scientific expertise for China; a guilty plea of a Chinese national on April 28, 2021 to illegal exports of U.S. origin goods to Northwestern Polytechnical University; a math professor and university professor at Southern Illinois University--Carbondale indicted for grant fraud on April 21, 2021; a former University of Florida researcher and resident of China indicted on February 3, 2021 for a scheme to defraud the National Institutes of Health and University of Florida; a professor and researcher at MIT indicted on January 20, 2021 on charges related to grant fraud with the PRC; an arrest of a University of Arkansas professor on May 11, 2020 for wire fraud and failing to disclose close ties with the Chinese government and Chinese companies when required to do so in order to receive grant money from NASA; a conviction on May 11, 2020 of a former Emory University professor and Chinese "Thousand Talents" participant for filing a false tax return; a guilty plea to failing a false

tax return on May 8, 2020 by a former Emory University professor and Thousand Talents Program participant; a guilty plea on March 10, 2020 by a former West Virginia University professor to fraud enabling him to participate in the “Thousand Talents Plan;” a settlement on December 19, 2019 with Van Andel Research Institute to resolve allegations of undisclosed Chinese grants to two researchers; and an indictment on August 21, 2019 of a University of Kansas (UK) researcher for fraud for failing to disclose conflict of interest with a Chinese University while doing research at KU funded by the U.S. government.⁸

Analysis

The conviction of Lieber is a victory for the China Initiative after the DOJ incurred a series of losses during last summer with six cases dismissed and the first case tried (against Anming Hu), resulting in acquittal. The scientific community has watched these cases closely to determine whether the DOJ will proceed with prosecutions of other professors and researchers. The Lieber conviction is important because it represents the most prominent academician, the chairman of Harvard's chemistry and chemistry biology department. In 2011, Lieber started a joint venture with one of his former students who started working with the Wuhan University of Technology.⁹

Lieber's pioneering work was believed to potential breakthroughs in bioelectronic medicine and made him a candidate for a Nobel prize.¹⁰

For Lieber the problem was not that he participated in the activities in China, but that he denied to U.S. law enforcement participating and of course failing to report the income on his tax returns and failure to file an FBAR.¹¹ Defendants failing to report their income in China and Chinese bank accounts has been a pattern in these cases. A typical way in which U.S. prosecutors succeed in prosecuting white collar cases involving foreign payments is to include tax and FBAR charges.

The prosecution of Lieber signals one round in the current wars between the U.S. and China.

As China ascends, especially in technology and economics, the U.S. and China are fighting: 1) technology wars, 2) trade/economic wars, 3) geopolitical wars, 4) capital wars, 5) military wars, 6) culture wars, and 7) the war within the U.S.¹² The wars contrast, for instance, with the bilateral cooperation in technology between China and Germany.¹³ Germany has engaged in close cooperation with China even though, in 2010, China overtook Germany as the largest exporting country even of high-tech goods. China was described as “one of the most important partners for German *41 research institutions as well as for German industry collaborations.”¹⁴

Until now, the Biden Administration has continued the China Initiative and the above-mentioned wars, although clearly the PRC's investment in STEM education, its Belt and Road Initiative, and its investment in international organizations means that its ascension is guaranteed, while the U.S. debt problems, its internal tensions, and its lack of continued investment in international organizations and STEM education reflect a rapid decline.

Footnotes

- 1 U.S. Department of Justice, *Harvard University Professor Convicted of Making False Statements and Tax Offenses*, Press Rel. No. 21-1284, Dec. 21, 2021.
- 2 U.S. Department of Justice, *Information about the Department of Justice's China Initiative and a Compilation of China-Related prosecutions since 2018*, Nov. 19, 2021.
- 3 U.S. Department of Justice, *Harvard University Professor Convicted of Making False Statements and Tax Offenses*, *supra*.
- 4 *Id.*
- 5 U.S. Department of Justice, *Information about the Department of Justice's China Initiative and a Compilation of China-Related prosecutions since 2018*, *supra*.
- 6 *Id.*
- 7 *Id.*
- 8 *Id.*
- 9 Ellen Barry, *Top U.S. Chemist Guilty of Not Disclosing Chinese Ties*, N.Y. Times, Dec. 22, 2021, at A22.
- 10 *Id.*
- 11 *Id.*
- 12 Ray Dalio, *Principles for Dealing with the Changing World Order: Why Nations Succeed and Fail* 423-59 (2021).
- 13 Rainer Frietsch and Ulrike Tagscherer, *German-Sino collaboration in science, technology and innovation*, Fraunhofer ISI Discussion Papers Innovation Systems and Policy Analysis No. 43 ISSN 1612-1430 (April 2014).
- 14 *Id.* at 1. See also Emily de La Bruyère and Nathan Picarsic, *Made in Germany, Co-opted by China*, Foundation for the Defense of Democracies, October 14, 2020 <https://www.fdd.org/analysis/2020/10/14/made-in-germany-co-opted-by-china> (recommending policies to combat alleged abuses by China, such as theft of intellectual property).

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