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Approved:


LOYAAN A. EGAL / STEVE C. LEE / BRIAN A. JACOBS
Assistant United States Attorneys

Before: HONORABLE DEBRA FREEMAN
United States Magistrate Judge
Southern District of New York

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SEALED COMPLAINT

UNITED STATES OF AMERICA :
v. : Violation of
: 18 U.S.C. §§ 1349, 1343
XING WU PAN, : COUNTY OF OFFENSE:
a/k/a "Oliver Pan," : NEW YORK
: Defendant.
:

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SOUTHERN DISTRICT OF NEW YORK, ss.:

DONALD M. CHU, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

(Conspiracy To Commit Wire Fraud)

1. From in or about 2009 up to and including in or about 2011, in the Southern District of New York and elsewhere, XING WU PAN, a/k/a "Oliver Pan," the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated and agreed together and with each other to commit wire fraud in violation of Title 18, United States Code, Section 1343.

2. It was a part and object of the conspiracy that XING WU PAN, a/k/a "Oliver Pan," the defendant, and others known and unknown, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money by means of false and fraudulent pretenses, representations, and promises, willfully and knowingly would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

Overt Act

3. In furtherance of said conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York:

a. On or about August 17, 2011, in New York, New York, XING WU PAN, a/k/a "Oliver Pan," the defendant, collected from certain individuals (hereinafter the "Straw Donors") completed fraudulent contribution forms and submitted the forms to an individual who worked for the campaign of a candidate for Citywide elective office in 2013 (the "Candidate").

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Attempted Wire Fraud)

4. From in or about 2009 up to and including in or about 2011, in the Southern District of New York and elsewhere, XING WU PAN, a/k/a "Oliver Pan," the defendant, willfully and knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice and attempting to do so, to wit, PAN and others engaged in a scheme to defraud the City of New York (hereinafter the "City") by using straw donors to attempt to obtain campaign matching funds to support the Candidate's campaign for Citywide elective office.

(Title 18, United States Code, Sections 1349 and 1343.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

5. I am a Special Agent with the Federal Bureau of Investigation (the "FBI"). I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with law-enforcement agents and others and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview Of The Scheme

6. On the basis of the evidence set forth below, there is probable cause to believe that XING WU PAN, a/k/a "Oliver Pan," the defendant, and his co-conspirators, participated in a scheme to defraud the City that involved the use of "straw donors"¹ to funnel a large illegal campaign contribution in the amount of \$16,000 -- above the individual contribution limit authorized by the City of \$4,950 -- to the Candidate's 2013 campaign for Citywide elective office. Among other things, one object of the scheme was to increase the amount of matching campaign funds the Campaign would receive from the City. Specifically, PAN received a \$16,000 campaign contribution from a single individual, who was actually an undercover FBI agent (the "U/C"), which was in excess of the \$4,950 limit on individual contributions. Because this contribution exceeded the \$4,950 limit, PAN arranged for multiple Straw Donors to make a series of smaller contributions to the Campaign -- under the \$4,950 limit -- totaling \$16,000. PAN then used the \$16,000 he received from the U/C to reimburse the Straw Donors for their contributions. On behalf of each Straw Donor, a campaign contribution form was filled out containing, among other things, the Straw Donor's apparent name, address, employment information, the amount donated to the Candidate, and the Straw Donor's purported signature acknowledging that the Straw Donor was not being reimbursed in any manner for making the campaign contribution. The City would rely upon the information contained in these fraudulent contribution forms, among other things, in order to determine whether to release matching campaign funds to the Candidate's 2013 campaign.

The City's Matching Campaign Funds Program

7. According to information provided by the New York City Campaign Finance Board (hereinafter the "NYCCFB"), candidates for elected office in the City are eligible to receive funds pursuant to a matching campaign fund program administered by the NYCCFB. The matching campaign funds program provides that for each dollar a New York City resident over 18 years of age contributes to a candidate for Citywide election -- up to a maximum of \$175 -- the candidates, if they elect to do so, will receive six dollars in matching funds from the City. Accordingly, each candidate could receive up to a maximum of \$1,050 in matching funds per contributor. Currently, individuals

¹ "Straw Donors" are individuals, who in violation of campaign finance laws, make campaign contributions in their own names with money they have received from other individuals or for which they receive reimbursement from other individuals.

are allowed to donate up to \$4,950 to candidates running for Citywide elective offices.

8. After reviewing records from the NYCCFB, among other things, I learned that the NYCCFB, through JP Morgan Chase Bank, requires that matching campaign funds from the City are wired from the Federal Reserve Board in Washington, D.C., to the bank account of any campaign based in the City, and that these funds travel through interstate wires before they are available to any Citywide political campaign.

9. The Candidate previously received matching campaign funds in connection with a prior campaign for a Citywide elective office during the 2009 election cycle.² A review of the most recent NYCCFB records shows that the Candidate has listed a certain dollar amount in "matching claims"³ for the 2013 election cycle.

The Investigation

10. XING WU PAN, a/k/a "Oliver Pan," the defendant, was never listed in NYCCFB campaign records as an "intermediary" or "bundler" for the Candidate, with respect to either the 2009 or 2013 election cycles.⁴ According to NYCCFB records, the Candidate has reported that the Candidate's campaign has not used any "intermediaries" thus far during the 2013 election cycle.

² For purposes of fundraising, an election cycle is the period of time between the last set of elections and the upcoming set of elections in the City. Thus, the 2013 election cycle fundraising period includes the time between the 2009 and the upcoming 2013 Citywide elections. As a matter of reference, the 2009 election cycle fundraising period included the period of time between the 2005 and the 2009 Citywide elections.

³ The term "matching claims" refers to the amount of campaign contributions that a campaign currently believes will be eligible for matching funds from the City.

⁴ The NYCCFB, in the "frequently asked questions" section of its website (the "NYCCFB FAQ"), defines an "intermediary," which is also known as a "bundler," as "an individual who solicits, collects or delivers campaign contributions from multiple contributors." The NYCCFB FAQ further notes that campaigns are required "to notify the [NYCCFB] when a contribution has been raised through an intermediary." According to the NYCCFB FAQ, "New York City is one of the few jurisdictions nationwide that requires disclosure of intermediaries."

11. Based upon the foregoing, among other things, the FBI introduced the U/C to XING WU PAN, a/k/a "Oliver Pan," the defendant. The U/C was posing as a businessperson interested in supporting the Candidate. On or about March 24, 2011, the U/C attended a luncheon in New York, New York. At this luncheon, the U/C met PAN, who provided the U/C with his telephone number. After meeting at this event, the U/C and PAN had multiple conversations concerning the U/C making a large campaign contribution to the Candidate's 2013 Campaign that would exceed the maximum allowable individual contribution of \$4,950 for a Citywide elective office during the 2013 election cycle. Below are excerpts from some of the conversations between PAN and the U/C⁵:

a. On or about July 27, 2011, the U/C met with PAN at PAN's residence in New Jersey. During this meeting, which the U/C recorded with a concealed video camera, PAN and the U/C discussed how the U/C could donate \$20,000 to the Candidate's 2013 campaign. PAN informed the U/C that PAN could find straw donors to funnel the U/C's contribution to the Candidate's 2013 campaign. During this meeting, the U/C stated, "What do you want? Wire transfer, cash, check?" PAN replied, "No, no, no, have to make all those names [referring to straw donors] . . . have to use their own credit cards and cash, and just behind, we give them cash [meaning reimburse the straw donors] . . . yeah, cannot give them all. That's why I have to play around." Based on my involvement in this investigation, I believe that PAN was discussing the manner in which he would use straw donors to funnel \$20,000 from the U/C to the Candidate's 2013 campaign. PAN also informed the U/C that he could arrange a meeting between the U/C and the Candidate during a fundraising event that some of the straw donors would attend.

b. On or about August 1, 2011, PAN had a telephone conversation with the U/C about arranging the \$20,000 contribution to the Candidate's 2013 campaign. During this call, which the U/C recorded, PAN restated that PAN would provide straw donors to funnel the U/C's contribution to the Candidate's 2013 campaign and arrange a meeting between the U/C and the Candidate during the week of August 15, 2011. PAN informed the U/C that the U/C could provide PAN with the \$20,000 in cash that week.

⁵ Certain of the conversations described below were in Mandarin Chinese, while others were in English. The descriptions of all these conversations contained in this Complaint, both those in English and those in Mandarin, are the product of preliminary transcriptions and translations. In a few instances, I have also included, in brackets, interpretations of terms and phrases, which interpretations are based on my training, experience, and participation in the investigation.

PAN also told the U/C that PAN had funneled large campaign contributions through straw donors for the Candidate in the past. PAN further stated that, in the past, PAN had collected contributions in a similar manner for another local politician, but not to the extent that PAN had done for the Candidate.

c. On or about August 15, 2011, PAN had a telephone conversation with the U/C. During this conversation, which the U/C recorded, PAN stated that he had arranged for the U/C to have a private meeting with the Candidate at a fundraising event for the Candidate's 2013 campaign. PAN stated, "We're not going to be many people there . . . about going to be four or five . . . You will, you will have [a] private session with [the Candidate] No reporter, no many people from staff. I only requested one come [referring to one of the Candidate's staff members (hereinafter "Campaign Staff Member-1")], no one else." Later during the conversation, the U/C asked PAN, "How's this work? I mean, how's this done before, Oliver?" PAN replied, "Yeah, usually, I have, I have they a . . . five people [referring to the Straw Donors], they fill out the form [referring to a campaign donor form], and they use, they use their own credit card or check, then, and then we give them the cash [meaning reimburse the Straw Donors]." The U/C then asked, "We give who, [the Candidate] the cash? Or [Campaign Staff Member-1] the cash?" PAN responded, "No, no, no. Going to give to me, I give it to those people [referring to the Straw Donors]." PAN then stated, "I do have all those peoples' names, mostly my friend[s]." Later, during the same conversation, PAN and the U/C discussed the City's campaign matching funds program. During this portion of the conversation, PAN stated, "Match funds, matching funds is on the City's side. Whatever they can raise on [the Candidate's] side, let's say they can raise a million [dollars] . . . the City or the State will match whatever the, the percentage to that."

d. Later during the conversation referenced above in Paragraph 11(c), PAN explained to the U/C, "Here's the thing, only [the Candidate] knows it's your [referring to the U/C] event. Legally, legally on the form it's those money from, those everybody's. Whatever, whatever is on the form with their [referring to the Straw Donors'] credit card, with their [referring to the Straw Donors'] check."

e. On or about August 16, 2011, PAN and the U/C met at a location in New York, New York. During this meeting, which the U/C recorded with a concealed video camera, PAN informed the U/C that PAN had some, but not all, of the contribution forms completed for the Straw Donors who would be used to funnel money from the U/C to the Candidate's 2013 campaign. PAN stated that in all, 20 straw donors would be used to funnel \$16,000 -- \$800 per straw donor -- from the U/C to the

Candidate's 2013 Campaign. PAN further stated that PAN wanted the U/C to "personally give [Campaign Staff Member-1]" the completed Straw Donor campaign contribution forms. PAN stated, "All these [referring to the Candidate's 2013 campaign contribution forms] tomorrow, I want you personally to give to [Campaign Staff Member-1] . . . and say they came from you [referring to the U/C], from your friends and relatives." PAN then explained that if it was just PAN, the Candidate, and the U/C, it would not look good, so a small number of the 20 Straw Donors would attend the Candidate's 2013 campaign fundraising event in an effort to give it the appearance of being a legitimate fundraising event. PAN explained, "Because it's you [referring to the U/C], me, [the Candidate], it don't look good. I need, to have to get a few people [referring to the Straw Donors]. Not all of them . . . five, six people."

f. Later during the conversation referenced above in Paragraph 11(e), PAN and the U/C again discussed the fact that the Candidate's 2013 campaign could receive matching funds from New York City for these contributions. PAN explained to the U/C, "Let's say [the Candidate] can raise a million, the City . . . match 100 percent or . . . 50 percent. Whatever [the Candidate] got up [to] a million [dollars], [the Candidate] can get matching fund half million [dollars], or another million. But detail [of] what percent, I don't know . . . Probably it's a 50 percent." In response, the U/C asked, "So would those, these contribution[s] would they get matching contribution? PAN responded, "Uh, huh [indicating an affirmative response]."

g. On or about August 16, 2011, following the conversation referenced above in Paragraphs 11(e) and (f), as well as following subsequent discussions, the U/C provided PAN with \$16,000 in cash. Referring to the Straw Donors, PAN explained to the U/C that "we can only select really good people -- don't know you that well no, never do that." The U/C asked PAN, "They're [referring to the Straw Donors] willing to do it, no problem whatsoever, they're good for it?" PAN responded, "Yeah, legally, in theory, it comes from everybody, but . . . it's your event."

h. On or about August 17, 2011, PAN and the U/C met at a location in New York, New York. The U/C recorded this meeting with a concealed video camera. Based on my review of the video, and my conversations with other law enforcement agents, including the U/C, I learned the following:

i. PAN and the U/C met at a location a few blocks away from PAN's office, and PAN showed the U/C multiple completed contribution forms for Straw Donors that were going to be submitted at the fundraising event that evening for the Candidate's 2013 campaign. PAN provided to the U/C a copy of

each Straw Donor's campaign contribution forms, which contained the names of several Straw Donors.

ii. PAN and the U/C walked to another location a few blocks away where PAN introduced the U/C to one of the Straw Donors ("Straw Donor-1"). With PAN's assistance, Straw Donor-1 filled out a campaign contribution form for the Candidate's 2013 campaign and provided Straw Donor-1's credit card information on the form.

iii. PAN and the U/C then went to the fundraising event for the Candidate. The U/C observed PAN hand another Straw Donor ("Straw Donor-2") cash. PAN introduced the U/C to another employee of the Candidate (hereinafter "Campaign Staff Member-2"). Campaign Staff Member-2 is listed as the Candidate's treasurer for the 2013 election cycle in documents submitted by the Candidate's 2013 campaign to the NYCCFB. PAN also introduced the U/C to Campaign Staff Member-1, as well as to other Straw Donors who were attending the fundraising event. PAN told Campaign Staff Member-1 and Campaign Staff Member-2 that this was "[the U/C's] event."

iv. The U/C handed Campaign Staff Member-1 and Campaign Staff Member-2 the Straw Donors' completed campaign contribution forms that PAN had previously given to the U/C. PAN and Campaign Staff Member-2 reviewed the information contained in the contribution forms, while Campaign Staff Member-1 and the U/C discussed the U/C's background.

v. PAN introduced the U/C to the Candidate and stated that the U/C was a "very good friend." PAN further stated, "Tonight is his [the U/C's] event." The Candidate and the U/C then engaged in a brief discussion in which the Candidate asked the U/C about the U/C's business background, and the U/C expressed his desire to assist the Candidate's 2013 campaign.

12. As referenced in Paragraph 11(h), on August 17, 2011, XING WU PAN, a/k/a "Oliver Pan," the defendant, provided to the U/C copies of the completed contribution forms for 18 Straw Donors, including one for PAN himself, that were submitted to the Candidate's 2013 campaign. Two of the Straw Donors share the same business address on their contribution forms that PAN listed on his contribution form. Two other completed Straw Donor contribution forms contain information about donors who also have the last name "Pan."

13. On or about September 27, 2011, Campaign Staff Member-2 sent an email to XING WU PAN, a/k/a "Oliver Pan," the defendant. In the email, Campaign Staff Member-2 stated that the check contribution of \$800 made by another Straw Donor on August

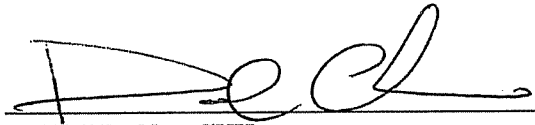
17, 2011 ("Straw Donor-3"), had bounced. Campaign Staff Member-2 asked PAN to ask Straw Donor-3 to issue another check.

14. On or about October 13, 2011, at approximately 11:43 a.m., XING WU PAN, a/k/a "Oliver Pan," the defendant, had a telephone conversation with the U/C. During this conversation, which the U/C recorded, the U/C mentioned recent newspaper articles and raised concerns over the previous use of the Straw Donors at the August 17, 2011 fundraising event referenced in Paragraph 11(h). PAN referred to the Straw Donors as "my friends." PAN also stated that if asked about contributions to the Candidate's 2013 campaign, the U/C should "just decline to comment . . . [say] you have nothing to say." Later during the conversation, the U/C asked whether PAN's "friends" [referring to the Straw Donors] would know what to say if contacted, to which PAN responded, "One thing for sure, they [referring to the Straw Donors] won't say the money's from you [referring to the U/C]."

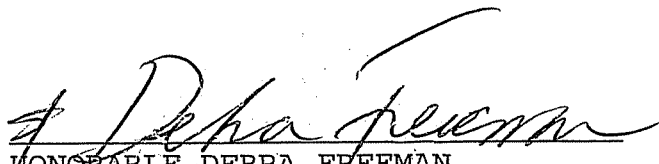
15. On or about October 20, 2011, XING WU PAN, a/k/a "Oliver Pan," the defendant, was interviewed by the FBI. During this interview, PAN admitted, among other things, that in or about August 2011, he illegally funneled the money he received from the U/C to the Candidate's campaign through the use of the Straw Donors as described above in Paragraph 11. PAN also admitted that each of the Straw Donors was either a family member, co-worker, or friend of PAN's.

WHEREFORE, deponent prays that a warrant be issued for the arrest of XING WU PAN, a/k/a "Oliver Pan," the defendant, and that he be imprisoned or bailed, as the case may be.

NOV 15 2011


DONALD M. CHU
Special Agent
Federal Bureau of Investigation

Sworn to before me this
____th day of November, 2011


HONORABLE DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK