

NEWS

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Citizen of the People's Republic of China Indicted in
Scheme to Steal Trade Secrets

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TRENTON – A citizen of the People’s Republic of China was charged in four-count federal Indictment today in connection with his scheme to steal trade secrets and proprietary information relating to computer systems and software with environmental applications from his New Jersey employer, Acting U.S. Attorney Ralph J. Marra, Jr., announced.

The Indictment charges Yan Zhu, 31, a.k.a. “Wesley ZHU,” a.k.a. “Westerly Zhu,” who resides in Lodi, with one count of conspiracy to steal trade secrets, and nine counts of wire fraud.

Zhu, who is in the United States on a work visa, was arrested on a federal criminal Complaint by Special Agents with the FBI at his residence on the morning of April 9, 2009. Later that day, the defendant made an initial appearance in federal court before U.S. Magistrate Tonianne J. Bongiovanni, who released the defendant on a \$200,000 secured bond. Zhu will be arraigned on the Indictment in federal court after the case is assigned to a U.S. District Judge.

The Indictment describes a scheme in which Zhu, along with other unindicted co-conspirators, used his employment with a business, which is identified in the Indictment only as “Company A,” to obtain access to the company’s trade secrets and proprietary and confidential information relating to computer software developed for the Chinese market.

According to the Indictment, Zhu was employed at Company A as a senior environmental engineer from May 2006 until his termination in July 2008. Company A is a software development and consulting company, with its principal office in Mercer County. The company develops, supports, and implements computer systems and software for environmental applications.

While employed with Company A, Zhu worked on a comprehensive hazardous waste information management system that Company A developed for the Chinese market. The purpose of this product was to allow a Company A customer, such as an environmental regulatory agency, as well as entities that interact with the environmental regulatory agency, such as hazardous waste producers and shippers, to enter, organize, and view certain data regarding pollution and hazardous waste within that agency’s jurisdiction. In addition, the Indictment alleges that Zhu worked on a Company A database application that was related to this software system.

The Indictment alleges that Zhu operated his scheme with at least two co-conspirators, identified only as Co-conspirators 1 (CC-1) and 2 (CC-2), both Chinese nationals residing in China. According to the Indictment, CC-1 had been introduced to Company A through Zhu and hired as Company A’s sales representative in the Science and Technology High-Tech Zone in Xian City, Shanxi Province, China. Company A rented office space in Xian City from which CC-1 represented Company A and hosted the subject software on its own computer system. The Indictment alleges that Zhu, CC-2 and CC-1, were associated with a company identified only as “Company X,” an environmental software company in China.

The Indictment alleges that Zhu and his co-conspirators took advantage of the trust placed in

Zhu by Company A by stealing Company A's trade secrets and proprietary and confidential business information, and exploiting an opportunity for Company A to market its product to the Chinese government. The Indictment alleges that, as early as January 2008, Zhu began sending Company A's computer software source code to CC-2 in China. Eventually, the Indictment alleges, the co-conspirators used this computer source code to develop a modified version of the Mercer County company's software in China, which was marketed under the Company X banner. The Indictment further alleges that the co-conspirators took control of the Mercer County company's office in China, and used that space to conduct Company X business.

According to the Indictment, Zhu was terminated on July 17, 2008, in part because Company A became aware that ZHU had sent Company A trade secret and confidential and proprietary information to his personal e-mail account.

The charge of conspiracy to steal trade secrets carries a maximum penalty of 10 years in prison and a fine of \$250,000 or twice the aggregate loss to the victims or gain to the defendants. Each count of wire fraud carries a maximum penalty of 20 years in prison and a fine of \$250,000 or twice the aggregate loss to the victims or gain to the defendants.

Despite indictment, the defendant is presumed innocent unless proven guilty beyond a reasonable doubt.

Marra credited Special Agents of the FBI's Trenton Resident Agency, under the direction of Special Agent in Charge Weysan Dun in Newark, with the investigation leading to the Indictment.

The government is represented by Assistant U.S. Attorney Eric M. Schweiker of the Criminal Division in Trenton.

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Defense Attorney: Valerie Wong, Esq. New York, N.Y.