Statement on Investigation of Chinese American Scientists

Endorsed November 2015

WHEREAS, over the last several years, the U.S. Government has increased investigations of Chinese American scientists for allegedly sharing technology with China; and

WHEREAS, Dr. Xiaoxing Xi, a naturalized U.S. citizen, was the chairman of the Temple University Physics Department in Philadelphia, Pennsylvania; and

WHEREAS, on May 21, 2015, the U.S. Attorney's Office for the Eastern District of Pennsylvania brought an indictment against Dr. Xi for wire fraud; and

WHEREAS, the indictment accused Dr. Xi of sharing sensitive superconductor technology with persons and entities in the Peoples Republic of China; and

WHEREAS, the indictment accused Dr. Xi of breaching an agreement with a private firm not to disclose or share the superconductor technology; and

WHEREAS, the indictment accused Dr. Xi of using a U.S. Department of Defense contract to purchase the superconductor technology from the firm; and

WHEREAS, if convicted, Dr. Xi faced a maximum possible sentence of 80 years in prison, three years of supervised release, a fine of up to $1 million, and a $400 special assessment; and

WHEREAS, the charges in the indictment were based solely on four e-mails in which Dr. Xi allegedly transferred the superconductor technology of a pocket heater to persons or entities in the Peoples Republic of China; and

WHEREAS, Dr. Xi was arrested and handcuffed by FBI agents in the early morning hours at his home in Penn Valley, Pennsylvania and held in federal custody until being let out on bail; and

WHEREAS, in September 2015 Dr. Xi’s lawyer presented affidavits from the co-inventor of the pocket heater and world renowned superconductor scientists that established that the allegedly incriminating emails were unrelated to the pocket heater; and
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WHEREAS, upon review of the evidence submitted by Dr. Xi’s lawyer, the U.S. Attorney’s Office sought permission from the court to dismiss the indictment; and

WHEREAS, on September 18, 2015, Judge Barclay Surrick signed an order dismissing the indictment of Dr. Xi; and

WHEREAS, this ordeal has been at great expense and detriment to Dr. Xi, his reputation, his research, his chairmanship of the Physics Department, and to both his well-being and that of his family; and

WHEREAS, the U.S. Government has offered no apology or compensation to Dr. Xi; and

WHEREAS, Dr. Xi’s case is the fifth such recent investigation (Dr. Haiping Sue, Dr. Guoqing Cao, Dr. Shuyu Li, and Sherry Chen) resulting in the withdrawal of indictments by the Department of Justice against Chinese American scientists;¹

THEREFORE BE IT RESOLVED that:

1. NAPABA calls for a Congressional investigation of the Department of Justice’s apparent policy of profiling Chinese Americans; and

2. NAPABA calls for an independent investigation by the Department of Justice to examine the appearance of a pattern and practice of profiling and whether race or ethnicity has played a role in the aforementioned and similar cases; and

3. The NAPABA Board authorizes its president to publish this resolution to other bar associations, to the Congressional Asian Pacific American Caucus, to the press, and to APA civil rights organizations and to whomever else the NAPABA President deems necessary.

THEREFORE BE IT FURTHER RESOLVED that the NAPABA supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution.

¹The case of U.S. v. Ellen Chen Yeh in a U.S. District Court (March 2014, Northern Dist. Texas) resulted in her acquittal on all charges of passing trade secrets.