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CONGRESSMAN JAY KIM

REPUBLICAN

February 9, 1996

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COMMISSION
OFFICE OF GENERAL
COUNSEL

FEB 12 2 11 PM '96

Honorable Danny L. McDonald
Chairman
Federal Election Commission
699 E Street, N.W.
Washington, D.C. 20463

AOR 1996-05

Dear Mr. Chairman:

On behalf of the Jay Kim for Congress Committee, I respectfully request an advisory opinion regarding the application of the Federal Election Campaign Act of 1971, as amended, ("the Act") and Commission regulations to the proposed refund of an unlawful contribution accepted without knowledge of its illegality by my campaign committee.

During my 1992 Congressional campaign, I received a total of \$2,000 each from five different employees of Samsung America, Inc. (In each case I received \$1,000 from each for the primary and \$1,000 from each for the general in compliance with the Act and FEC regulations.) At the time of receipt and deposit, my campaign had no reason to believe these contributions were illegal.

However, on January 31, 1996, I learned for the first time that Samsung America pled guilty in the United States District Court for the Central District of California to reimbursing with cash each of these five contributors the full amount of their total contributions to my campaign. Attached is a copy of the indictment. Again, my campaign had no knowledge that Samsung America reimbursed the personal contributions of its employees. As this was an internal corporate action, there is no way my campaign or I could have known about such reimbursements at the time. But, based on the new evidence produced by the indictment in U.S. District Court, we have now discovered that these contributions should not have been accepted and deposited.


Hon. Danny McDonald
February 9, 1996
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I am aware that in accordance with 11 CFR 103.3(b)(2), my campaign is required to refund the contribution to the contributor within thirty days of the date in which the illegality is discovered. However, as noted in the attached article from the *Inland Valley Daily Bulletin*, the FEC spokesperson indicates that the FEC recommends that tainted contributions be given to the U.S. Treasury instead of being returned to the contributor. Other information I have received informally from the FEC indicates that tainted contributions can be given to a state or local governmental entity, or a qualified charitable organization, or for a lawful purpose unrelated to any Federal election, campaign, or candidate. In light of the circumstances surrounding the specific contributions I received from the five Samsung employees, I respectfully request that the Commission advise my campaign committee as to whom to disburse these tainted contributions.

Furthermore, if these contributions are to be refunded to the individuals from whom the initial contribution was received, what should my campaign committee do if it is unable to now find these individuals within thirty days?

Insofar as the regulations require the disbursement of these tainted contributions within thirty days, I would appreciate an advisory opinion as soon as possible. Thank you for your assistance with this matter.

Sincerely,


JAY KIM
Member of Congress

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
October 1994 Grand Jury

UNITED STATES OF AMERICA,)	CR 96-
)	
Plaintiff,)	I N D I C T M E N T
)	
v.)	[2 U.S.C. §§ 441(b), 437(g):
)	Illegal Corporate Campaign
SAMSUNG AMERICA, INC.,)	Contributions]
)	
Defendant.)	
)	

The Grand Jury charges:

GENERAL ALLEGATIONS

At all times relevant to the Indictment:

1. Defendant SAMSUNG AMERICA, INC. is a corporation incorporated in the state of New York with its principal place of business located in La Mirada, California. Defendant SAMSUNG AMERICA, INC. is a subsidiary wholly owned by Samsung Corporation. Samsung Corporation is a foreign corporation incorporated under the laws of the Republic of Korea, with its principal place of business located in Seoul, South Korea.

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[Signature]

1 2. The individuals set forth below are employees of defendant
2 SAMSUNG AMERICA, INC. who were reimbursed with cash by defendant
3 SAMSUNG AMERICA, INC. for the contributions to the Jay Kim for
4 Congress Committee set forth below:

5	<u>Date</u>	<u>Employee</u>	<u>Amount</u>
6	9/15/92	Paik, Young J. Credit/Legal Coordinator	\$2,000
7	9/15/92	Seo, Moon Kyung Senior Accountant	\$2,000
8	9/16/92	Koh, Ryan K. Manager	\$2,000
9	9/17/92	Kim, Brian S. Assistant Manager	\$2,000
10	9/17/92	Cho, Kyung Hei General Accountant	\$2,000
11			
12			
13			

14 3. The Federal Election Campaign Act governs contributions to
15 federal candidates in the United States. Under the applicable
16 federal law, it is illegal for a corporation or a foreign national
17 to make a contribution of any amount to a candidate in a federal
18 election. Federal law allows individuals, who are United States
19 citizens or authorized permanent residents, to make contributions of
20 up to \$1,000 per candidate, per election. Pursuant to federal law,
21 it is illegal to make a contribution in the name of another.

22 4. The Jay Kim for Congress Campaign Committee was a
23 political committee registered with the Federal Election Commission
24 under the Federal Election Campaign Act, and was authorized by Jay
25 Kim, a candidate for the United States House of Representatives, to
26 solicit, accept and receive contributions, and to make expenditures,
27 for the purpose of electing Jay Kim to the United States House of
28 Representatives.

01/30/84 14:45

THE PROSECUTOR

006

1 5. These General Allegations are incorporated by reference
 2 into Count One of this Indictment.

1 THE COUNT ONE OF THIS INDICTMENT
 - THE COUNT ONE OF THIS INDICTMENT

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1996



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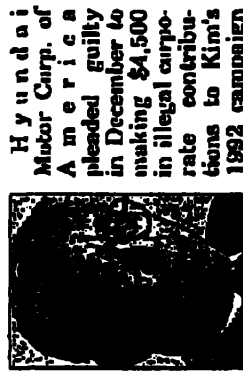
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Kim's returning of illicit funds defies agency's advice

By Clyde Weiss
Donvey Washington Bureau

WASHINGTON — Inland Valley Rep. Jay Kim refunded \$2,500 in illegal campaign contributions in December to the individuals who made them, a practice frowned on by the government agency that enforces election laws.

Although the law does not require it, the Federal Election Commission prefers that illegal campaign contributions not be returned to the individuals or corporations that made them so that they do not profit or get their money back, an agency spokesperson said Wednesday.



Kim and paid a \$600,000 in criminal fines. Also indicted, and facing a March trial, is Hyundai controller Paul Koh, 40, of Mission Viejo.

A campaign report filed this week with the FEC disclosed that Kim, R-41st District, refunded \$1,000 to Koh on Dec. 28, eight

days after his indictment by a federal grand jury in Los Angeles.

Illegal contributions of \$1,000 and \$500 were also refunded on Dec. 28 to Hyundai employees Myung Byong Suh of Irvine and Deborah Kang of Garden Grove, respectively. Neither was indicted but each was named in the indictment as having been conduits through which Hyundai made the illegal contributions.

While Kim's campaign was not prohibited by federal election law from returning the illegal campaign contributions to the three individuals, the FEC strongly advises against it.

The FEC has issued advisory

opinions that individuals and companies that make illegal contributions to political campaigns should not be given back those donations, said spokesperson Sharon Snyder.

"You don't necessarily want to refund money to a contributor who never gave it in the first place," she said.

"That would be rewarding somebody for having participated in an illegal scheme. You, of

course, don't have to give it back to the corporation (where the illegal contribution originated) because it was illegal to begin with. You want to get the money out of the (political) process."

The FEC prefers that illegal contributions be given to the U.S. Treasury, Snyder said. Whether Kim's campaign will be penalized or chastised in any way for not having done so was not clear Wednesday.