

## Diane Lee Acquitted Of Fraud By Appeals Court Judges Who Are Sued For Malfeasance

Diane Lee was unanimously acquitted by Taiwan's High Court on August 23, 2011 of four counts of fraud related to her holding public office in Taiwan while a dual-citizen of the United States and Taiwan. Lee's acquittal caused a firestorm of criticism in Taiwan, and on August 26 the three appeals court judges who acquitted Lee [were sued](#) for malfeasance.

Lee, 52, is the daughter of Lee Huan, who served as Taiwan's premier between 1989-1990. She was born in Taiwan but in her early-20's she traveled to the United States for her education. She obtained permanent residency in the U.S. in 1985 and citizenship in 1991. Lee did not give up her Taiwanese citizenship.

She returned to Taiwan in 1994 when she was 35 and was elected as a Taipei City councilor. Taipei is Taiwan's capital and largest city. Four years later Lee was elected as a legislator to Taiwan's Parliament and she was re-elected twice to four year terms as a member of the Chinese Nationalist Party (KMT).

In June 2001 Taiwan modified its Nationality Law with Article 20 that prohibits foreign citizens from holding any government office.

Almost seven years later Taiwan's *Next Magazine* published an article in March 2008 that alleged Lee was violating the law by serving as a public official while holding dual citizenship in the United States and Taiwan and that she had a U.S. Passport.

Lee vigorously [denied the allegation](#) and claimed that she lost her U.S. citizenship when she was elected to office in 1994. Her lawyer met with reporters and explained that under Section 349(A)(4) of the U.S. Immigration and Nationality Act a U.S. citizen loses their citizenship by serving as a public official in another country or by taking an oath of allegiance to another country in relation to a government post. Which is what Lee did in 1994 when elected as a Taipei City councilor.

In a follow-up article *Next* claimed that Taiwan's Ministry of Foreign Affairs had received confirmation from U.S. officials that Lee was a U.S. citizen.

The main rival of the KMT is the Democrat-



Diane Lee in 2008  
(ChuPei-Hsiung,  
*Taipei Times*)

ic Progressive Party (DPP), and after the *Next* articles were published they reported Lee's case to the Taipei District Prosecutors' Office for investigation. In January 2009 the prosecutors' office received confirmation from the U.S. Department of State that Lee was a U.S. citizen.

The Lee scandal was front page news in Taiwan and the DPP went all out to fan the flames of the controversy.

Lee resigned in December 2008 from the KMT and gave up her position as a legislator in January 2009.

In February 2009 Taiwan's Central Election Committee voted to annul Lee's [four elections](#) from 1994 to 2008, and there was speculation it would require her to return all the money she had been paid in salary and expenses during her 14 years as an elected official.

In September 2009 Lee was indicted on four counts of fraud. The indictment alleged that during her four elections to public office she had intentionally concealed her U.S. citizenship, and during her 14 years as a public official she had been illegally paid about US\$3.9 million in salary and other payments. (Lee was charged with being paid NT\$127.77, which was about US\$3.9 million at the Sept. 2009 exchange rate of 32.5 NT\$ per US\$.)

During Lee's trial her defense was that she didn't knowingly commit any fraud as a councilor or legislator, although she did acknowledge the evidence from U.S. authorities supported that she remained a U.S. citizen after her 1994 election.

The Taipei District Court [found her guilty](#) of the four counts of fraud and sentenced her to two years in prison on February 4, 2010. She was allowed to remain free pending resolution of her appeal.

After Lee's conviction the Taipei City Council filed a lawsuit against Lee seeking return of the NT\$22.7 million (US\$698,000) that she earned during her four years as a city councilor. On March 29, 2011 the Taipei High Administrative Court [ruled that because](#) no complaint was made about Lee's performance of her duties as a councilor from 1994 to 1998, the income she received was legal and she did not have

to return it.

On August 23, 2011 a three-judge panel of Taiwan's High Court acquitted Lee [of all four](#) fraud counts. The Court ruled that although technically her elected status should have been invalidated by the Central Election Committee because of her dual citizenship that could have easily been proven, the commission had maintained Lee's elected status, which was an administrative error not of Lee's doing and so her acceptance of her salary couldn't be construed as fraud. Official inquiries had never been made of Lee about her possible dual U.S.-Taiwanese citizenship prior to any of the four elections she won, and neither the Taipei City Council nor the Legislator had examined or even asked her whether she had dual nationality, and consequently the prosecution had not proven that she committed fraud.

There was immediate condemnation of Lee's acquittal by her former political opponents. An editorial in the *China Post* newspaper [described the appeals court](#) ruling as Kafkaesque because it put the burden on election officials to determine whether a person was eligible for public office.

Three days after her acquittal the Taiwan Solidarity Union (TSU) [filed a lawsuit](#) against the three High Court judges who acquitted Lee, accusing them of malfeasance. When interviewed, Chou Ni-an, a deputy director of the TSU described the three judges as "dinosaur judges." Ni-an also said of the judge's ruling, "This is like telling people that it's OK to cheat."

Lee's brother Lee Ching-hua has weathered the attacks on his sister, and he remains a KMT legislator in Taiwan's Parliament.

Sources:

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[Diane Lee may](#) keep salary: court, *Taipei Times*, March 30, 2011

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[TSU files](#) a lawsuit against judges in the Diane Lee case, *Taipei Times*, August 27, 2011

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