

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

TO: AIGI	File Number: I92100027	Date: 16 May 2002
Subject: Closeout Memo		Page 1 of 1

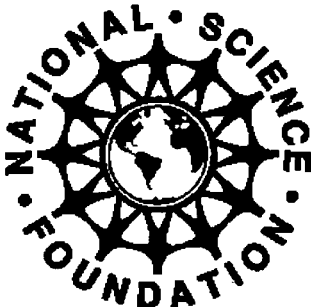
There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject¹ was alleged to have extensively misused grant funds by NSTA. Joint Audit and Investigations recovered \$200,000. The subject pled guilty to 18 USC 666, paid restitution of \$20,000.00, fined \$10,000.00. The subject was also sentenced to one thousand hours of community service and four months of home confinement. The subject was debarred for three years.

The attached documents constitute the closeout for this case.

¹ Russell Aiuto

Name:	Prepared by:	Cleared by:		
	Agent:	Attorney:	Supervisor:	AIGI
Signature & date:				



OIG Chron

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DEPUTY DIRECTOR

August 29, 1995

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dr. Russell Aiuto
[REDACTED]

Re: Debarment

Dear Dr. Aiuto:

On July 7, 1995, the National Science Foundation (NSF) sent you a Notice of Suspension and Proposed Debarment in which NSF proposed to debar you from directly or indirectly obtaining the benefits of Federal research grants for a period of three years. A copy of the Notice is enclosed. The Notice sets forth in detail the circumstances giving rise to your debarment. Your debarment is based on your criminal conviction of theft from Federal grant monies awarded to the National Science Teacher's Association. The conviction establishes by a preponderance of evidence cause for debarment pursuant to 45 CFR §§620.314(c) and 620.305.

In the July 7, 1995 Notice of Proposed Debarment, NSF informed you that you had a period of 30 days in which to respond to the proposed debarment. If no response was received during that time period, the debarment would become final. You did not respond to the proposed debarment.

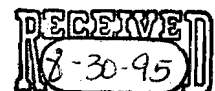
Accordingly, this serves as notice pursuant to 45 CFR §620.314 that you are debarred until July 7, 1998. The debarment shall be effective throughout the Executive Branch of the Federal Government. You will be excluded from receiving Federal financial and non-financial assistance and benefits under nonprocurement programs and activities unless an agency head or an authorized designee makes a determination to grant an exception in accordance with 45 CFR §620.215.

If you have any questions regarding the foregoing, please feel free to contact me.

Sincerely,

Anne C. Petersen
Deputy Director

Enclosure



NATIONAL SCIENCE FOUNDATION

4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

July 7, 1995



OFFICE OF THE
GENERAL COUNSEL

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dr. Russell Auito
[REDACTED]

Re: Notice of Suspension and Proposed Debarment

Dear Dr. Auito:

This letter serves as formal notice that the National Science Foundation (NSF) has suspended you and is proposing to debar you from directly or indirectly obtaining the benefits of Federal grants for a period of three years from the date of this letter. A person who is debarred will be excluded during the period of debarment from Federal financial and non-financial assistance and benefits under nonprocurement Federal programs and activities. See 45 CFR Sections 620.110 and 620.200. Debarment of an individual is effective throughout the executive branch of the Federal Government. The effect of suspension is the same as debarment, except that it is for a temporary period of time pending completion of debarment proceedings.

Reasons for Suspension and Debarment

Your suspension and debarment are based upon a referral from our Office of Inspector General (OIG). The Foundation's record demonstrates that you have committed irregularities seriously reflecting on the propriety of further Federal Government dealings with you, and that there is a cause for your suspension and debarment. The Foundation's current administrative record indicates that you were the Director of Research and Development with the National Science Teacher's Association ("NSTA"), an organization that received Federal funding from the Department of Education and NSF. The investigation of this matter further disclosed that you were criminally convicted of theft from Federal grant monies awarded to NSTA.

Specifically:

1. On May 26, 1995, an Information was filed in the United States District Court for the District of Columbia in the matter of U.S. v. Russell Auito. A copy of the information is enclosed and the allegations are hereby incorporated by reference. The information charged you with one count of misapplying \$19,598.67 of Federal funds awarded to NSTA by the Department of Education and the NSF

Dr. Russell Aiuto
Page Two

between January, 1991 and May, 1993, in violation of
18 USC §666 (Theft Concerning Programs Receiving Federal Funds).

2. On June 7, 1995, you pled guilty to the Information filed in
U.S. District Court for the District of Columbia. A copy of the
Plea Agreement is attached and hereby incorporated by reference.

Regulatory Basis for Debarment and Suspension

45 CFR Section 620.305 provides that debarment may be imposed for:

(a) Conviction of or civil judgment for:

(1) Commission of fraud or a criminal offense in
connection with obtaining, attempting to obtain, or performing a
public or private agreement or transaction;

* * *

(3) Commission of embezzlement, theft, forgery, bribery,
falsification or destruction of records, making false statements,
receiving stolen property, making false claims, or obstruction of
justice; or

(4) Commission of any other offense indicating a lack of
business integrity or business honesty that seriously and directly
affects the present responsibility of a person.

Your conviction for theft from a program receiving Federal funds
supports a cause for debarment under 45 CFR Sections 620.305(a) (1),
(2), and (3). Your conviction reflects adversely on your
integrity, honesty, and present responsibility in relation to
Federal financial and non-financial assistance and benefits. The
filing of the Information and your subsequent conviction also
establish adequate evidence for your suspension. 45 CFR Sections
620.400 and 620.405.

Debarment must be for a period commensurate with the seriousness of
the cause. 45 CFR Section 620.320(a). It should generally not
exceed three years, but where circumstances warrant, a longer
period may be imposed. 45 CFR Section 620.320. If a suspension
precedes the debarment, the suspension shall be considered in
determining the debarment period. 45 CFR Section 620.320. The
burden of proof is on the government to establish facts which
justify debarment by a preponderance of the evidence. 45 CFR
Section 620.314(c). Where the proposed debarment is based upon a
conviction, the standard shall be deemed to have been met. 45 CFR
Section 620.314(c).

You pled guilty to intentionally misapplying and knowingly
embezzling from NSTA \$19,598.67 in funds which derived from Federal

grant monies from NSF and the Department of Education. Because of the seriousness of this offense, we are proposing debarment for a period of three years.

Procedures Governing Proposed Debarment

The provisions of 45 CFR Sections 620.300 through 620.420 govern debarment and suspension procedures and decisionmaking. Under our regulations, you have 30 days after receipt of this notice to submit, in person, or in writing, or through a representative, information and argument in opposition to your suspension and debarment. 45 CFR Sections 620.313(a); 620.412(a). Comments submitted within the 30-day period will receive full consideration and may lead to a revision of the recommended disposition. If we do not receive a response to this notice within the 30-day period, this debarment will become final.

Any response should be addressed to me at the National Science Foundation, Office of General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia, 22230. For your information, we are attaching a copy of the Foundation's regulations on Non-procurement Debarment and Suspension.

Sincerely,

Lawrence Rudolph
General Counsel

Attachments (3)
Information
Plea Agreement
Debarment and Suspension Regulations

NATIONAL SCIENCE FOUNDATION

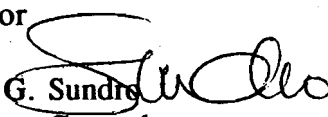
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

14 June 1995



OFFICE OF
INSPECTOR GENERAL

TO: Neal F. Lane
Director

FROM: Linda G. Sundin 
Inspector General

SUBJECT: Proposed Suspension and Debarment of Dr. Russell Aiuto

I am referring this matter to you because under NSF's nonprocurement debarment regulation, NSF's suspending and debarring official is either you or an official whom you designate.¹ Thus, you may resolve this matter yourself, delegate it to the Deputy Director,² or designate another senior NSF official to handle it.

On June 7, 1995, Dr. Russell Aiuto, the former Director of Research and Development with the National Science Teacher's Association (NSTA) in Arlington, Virginia, entered a plea of guilty to one count of theft from a program receiving federal funding, a felony violation of 18 U.S.C. § 666. In an Information filed by the U.S. Attorney of the District of Columbia, Dr. Aiuto had been charged with one count of misapplying, embezzling, and fraudulently obtaining federal funds awarded by the National Science Foundation and the U.S. Department of Education (DoEd) to NSTA. United States District Judge Emmet Sullivan accepted Dr. Aiuto's guilty plea. Copies of the Information, the plea agreement, and the Department of Justice press release are attached.

Prior to his tenure at NSTA, Dr. Aiuto was Director of NSF's Division of Teacher Preparation and Enhancement Program in the Directorate for Education and Human Resources. At NSTA, he was responsible for public relations and dissemination of materials related to a grant called the *Scope, Sequence and Coordination (SS&C) Project*, a program intended to revise the manner in which science is taught in secondary schools. His salary as Director of Research and Development at NSTA was paid by NSF and DoEd SS&C grants. Our audit and investigation into his misuse of federal funds at NSTA disclosed that \$19,598 in NSF and DoEd grant funds were fraudulently diverted by Dr. Aiuto into his personal financial account. Dr. Aiuto is scheduled to be sentenced on September 19, 1995, before Judge Emmet Sullivan.

¹45 C.F.R. § 620.105(g), (t).

²NSF's misconduct regulation designates the Deputy Director (or her designee) to be the debarring official for misconduct cases in which OIG recommends debarment. 45 C.F.R. § 689.8(c)(1)(i). This is not a misconduct case.

He faces a maximum sentence of 10 years imprisonment and a fine of \$250,000.

Based on the criminal Information and guilty plea by Dr. Aiuto, we recommend that you, in your capacity as NSF's suspension and debarment official, initiate suspension and debarment proceedings to prohibit Dr. Aiuto from receiving federal assistance (through grants or cooperative agreements) from any source, for a period of three years. Debarment will prevent Dr. Aiuto from receiving additional grants, and will also restrict his ability to work under another PI's award. We also recommend immediate suspension proceedings, because prompt action is necessary to ensure that Dr. Aiuto does not receive funding as co-PI on a proposal he recently submitted to NSF.³

In addition, we recommend that you take action to ensure that Dr. Aiuto stops receiving NSF funding,⁴ which is not affected by suspension and debarment; and alert the National Endowment for the Humanities (NEH) and DoEd, both of which currently provide funding to Dr. Aiuto,⁵ so that appropriate action is taken by all components of the federal government. Agency officials at NSF, NEH, and DoEd should determine whether it is more appropriate to (1) terminate all grants involving Dr. Aiuto, or (2) replace Dr. Aiuto on current awards while allowing the grantee institution to continue to receive federal funding.

Please let us know what actions you will take in this matter.

Enclosures: 1. Department of Justice Press Release
2. Information filed by U.S. Attorney
3. Plea agreement

cc: Anne C. Petersen, Deputy Director (w/enclosures)
Lawrence Rudolph, General Counsel (w/enclosures)
Luther S. Williams, Assistant Director (w/enclosures)

³RED 95-54285, Edward J. Barboni (PI), Russell Aiuto (co-PI), and Russell Garth (co-PI), *Planning Grant for the Effective Incorporation of the Internet in Teacher Preparation and Professional Development*.

⁴According to information currently available to us, Dr. Aiuto receives NSF funding via Interagency Agreement DUE-9353328, to the National Endowment for the Humanities (NEH). DUE-9353328 provides funds to support NEH award EW-20214-94, Russell Aiuto (PD), *Integrating the Sciences and the Humanities in a Program of Environmental Studies*.

⁵National Endowment for the Humanities, EW-20214-94, Russell Aiuto (PD), *Integrating the Sciences and the Humanities in a Program of Environmental Studies* (see note 4); U.S. Dept. of Education, P-271A40018, *Developing Faculty Professionalism and Academic Leadership for Faculty Members at Historically Black Independent Colleges* (1994).



U.S. Department of Justice

United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St. N.W.
Washington, DC 20001*

Contact: Kevin A. Ohlson
(202) 514-6933

FOR IMMEDIATE RELEASE
June 7, 1995

PRESS RELEASE

ERIC H. HOLDER, JR.
UNITED STATES ATTORNEY
FOR THE DISTRICT OF COLUMBIA

United States Attorney Eric H. Holder, Jr., announced that Dr. Russell Aiuto, 60, of Frederick, Maryland, the former Director of Research and Development with the National Science Teacher's Association ("NSTA") in Arlington, Virginia, entered a plea of guilty today in United States District Court to one count of theft from a program receiving federal funding. Dr. Aiuto admitted that he had embezzled from NSTA approximately \$19,598.00 in funds, which had originated from federal grant monies awarded to NSTA by the National Science Foundation (NSF) and the Department of Education.

According to the statement of facts presented in Court today, Dr. Aiuto was responsible for public relations and dissemination of materials related to a grant project called the "Scope, Sequence, and Coordination Project," a program intended to revise the manner in which science is taught in secondary schools. Prior to his employment with NSTA, Dr. Aiuto had served as the Director of the Division of Teacher Preparation and Enhancement at NSF, and had been involved with the formation of this grant program. As a representative of NSTA, Dr. Aiuto traveled throughout the country,

making presentations about science education reform to state and local school districts and professional educational organizations. Dr. Aiuto's travel for this purpose was paid for by NSTA from the grant funds.

An audit by the Office of Inspector General of NSF of the grant program revealed that on many occasions, Dr. Aiuto had sought reimbursement for his official travel expenses directly from the institutions and organizations to which he had lectured, despite the fact that NSTA had already financed his official travel. When Dr. Aiuto was successful in obtaining such reimbursements, he deposited the checks that he received directly into his personal bank account without remitting the funds to NSTA or even notifying NSTA that he had received a reimbursement.

Dr. Aiuto is scheduled to be sentenced on September 19, 1995, before United States District Judge Emmet Sullivan. He faces a maximum sentence of 10 years imprisonment and a fine of \$250,000.

United States Attorney Eric H. Holder, Jr. praised the investigative efforts of Special Agents Paul Coleman and Catherine Hickey from the Office of Inspector General at the National Science Foundation. He also praised the work of Assistant United States Attorney Leslie Ann Gerardo, who prosecuted the case.



U.S. Department of Justice

United States Attorney

District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, DC 20001

April 21, 1995

Robert A. Gingell, Esquire
Gingell & Jenkins
Suite 506
Wheaton Plaza South
11160 Viers Mill Road
Silver Spring, MD 20902

Re: United States v. Russell Aiuto

Dear Mr. Gingell:

This letter sets forth the full and complete plea offer from the Office of the United States Attorney for the District of Columbia to your client, **RUSSELL AIUTO**, and supersedes any previous offer. This offer is binding only upon the United States Attorney's Office for the District of Columbia. There are no other agreements, promises, terms or conditions expressed or implied. The plea offer expires at 5:30 p.m. on Friday, May 12, 1995. If your client intends to accept this offer, then a copy of this letter, signed by your client, must be delivered or faxed to my office by 5:30 p.m. on Friday, May 12, 1995. My office fax number is (202) 514-8782.

PLEA AGREEMENT

The United States, by and through its representative, the United States Attorney's Office for the District of Columbia, enters into the following Plea Agreement with the defendant **RUSSELL AIUTO**:

1. CHARGES, POTENTIAL PENALTIES AND ASSESSMENTS

(a) **RUSSELL AIUTO** (defendant) will plead guilty to an information charging him with one count of theft from a program receiving Federal funds (18 U.S.C. § 666). This is a felony offense, and will expose defendant to a maximum possible penalty of a fine of not more than \$250,000, imprisonment of not more than 10 years, and a special assessment of \$50.00 pursuant to 18 U.S.C. § 3013(a)(2)(A).

(b) Defendant understands that sentencing in this case shall be imposed pursuant to the Sentencing Guidelines promulgated by the

United States Sentencing Commission, as codified at 18 U.S.C. §3551 and sections following.

(c) Defendant understands that if the court determines that the Sentencing Guideline range is greater than what defendant and defense counsel believe to be correct, then defendant is still bound by this Plea Agreement.

2. FACTUAL ADMISSION OF GUILT

The plea of guilty in this case will be based upon a factual admission of guilt by defendant to the offense charged. This admission by the defendant will be made before the Court. The plea of guilty will be entered in accordance with Rule 11 of the Federal Rules of Criminal Procedure.

3. Defendant AGREES to the following additional conditions:

(a) WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS

(i) Waiver of Constitutional Rights -- Defendant understands that by pleading guilty in this case, defendant will be giving up the following constitutional rights: the right to be indicted by a grand jury, the right to plead not guilty, the right to a jury trial at which defendant would have the opportunity to present evidence, testify in defendant's own behalf, cross-examine witnesses, and to be represented by counsel. If defendant chose not to testify at such a trial, then that decision could not be held against defendant. Defendant would be innocent until proven guilty beyond a reasonable doubt and the burden of proof would rest upon the United States. If defendant were found guilty after such a trial, then defendant would have the right to appeal the conviction.

(ii) Waiver of Statutory Rights -- Defendant also understands that, as part of entering into this Plea Agreement, defendant also specifically waives any rights that defendant may have had under the Speedy Trial Act, 18 U.S.C. § 3161, et. al.

(b) LOSS AMOUNT

The United States proffers that \$19,598.67 shall be the amount of loss used to calculate the Specific Offense Characteristic pursuant to § 2B1.1 (b)(1) of the United States Sentencing Guidelines (Sentencing Guidelines). This is the amount of loss caused by defendant.

(c) RESTITUTION

Defendant AGREES that \$19,598.67 shall be the amount of restitution to be paid by defendant in such increments as are determined by the United States Probation Office.

(d) NO WAIVER OF CIVIL REMEDIES

Defendant UNDERSTANDS AND AGREES that this Plea Agreement affects only criminal charges and shall not be construed, in whole or in any part, as a waiver, settlement or compromise of any remedies available to the United States under 31 U.S.C. § 3729, et. seq., or any other civil remedies available to the United States by law.

(e) USE OF INFORMATION

Defendant AGREES that the United States may make derivative use of and may pursue any investigative leads suggested by any information provided by defendant. In the event defendant is ever a witness in any judicial proceeding, defendant may be cross-examined concerning any statements or information that defendant provided pursuant to this Plea Agreement, and evidence regarding such statements and information may be introduced in rebuttal.

Defendant knowingly and voluntarily waives any rights defendant may have pursuant to Federal Rule of Evidence 410 and Federal Rule of Criminal Procedure 11(e)(6), which might otherwise prohibit the use against defendant of information or statements under the circumstances just described.

(f) BREACH OF AGREEMENT BY DEFENDANT

Defendant AGREES that if defendant fails to comply with any of the provisions of this Plea Agreement, or refuses to answer any questions put to defendant, or makes any false or misleading statements to investigators, or refuses to cooperate with investigators and attorneys of the United States, or makes false or misleading statements before any grand jury or court, or commits any further crimes, then the United States will have the right to characterize such conduct as a breach of this Plea Agreement, in which case the obligations of the United States under this agreement will be void and the United States will have the right to prosecute defendant for any and all offenses that can be charged against defendant in the District of Columbia, or in any other District, or State. Any such prosecutions of defendant not time-barred by the applicable statute of limitations on the date of the signing of this agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the running of the applicable statute of limitations before the commencement of such prosecutions. Defendant knowingly and voluntarily agrees to waive any and all defenses based on the statute of limitations for any prosecutions commenced pursuant to the provisions of this paragraph.

Defendant understands and agrees that the United States shall only be required to prove a breach of this Plea Agreement by a preponderance of the evidence. Defendant further understands and

agrees that the United States need only prove a violation of Federal, state and local criminal law by probable cause in order to establish a breach of this Plea Agreement.

(g) SENTENCE WITHIN DISCRETION OF THE COURT

Defendant UNDERSTANDS that the ultimate sentence to be imposed in this case is a matter solely within the discretion of the Court.

4. As part of this Plea Agreement, the United States agrees to the following:

(a) NO ADDITIONAL CHARGES

If defendant completely fulfills all obligations under this Plea Agreement, then the United States Attorney's Office for the District of Columbia agrees to bring no additional criminal charges against defendant for any offenses related to defendant's employment with the National Science Teacher's Association, concerning the National Science Foundation grant for the Scope, Sequence, & Coordination Project.

(b) SENTENCING GUIDELINES RANGE

If defendant completely fulfills all obligations under this Plea Agreement, then the United States Attorney's Office for the District of Columbia will not oppose the sentencing of defendant to the lower part of the applicable sentencing range as determined by the United States Probation Office, pursuant to the Sentencing Guidelines.

(c) ACCEPTANCE OF RESPONSIBILITY

If defendant completely fulfills all obligations under this Plea Agreement, then the United States Attorney's Office for the District of Columbia will not oppose defendant receiving a two-level downward adjustment for Acceptance of Responsibility pursuant to § 3E1.1 of the Sentencing Guidelines, provided that defendant continues to show acceptance of responsibility through full cooperation with the presentence report writer.

(d) WAIVER OF STEP-BACK

If defendant completely fulfills all obligations under this Plea Agreement, then the United States Attorney's Office for the District of Columbia will not ask that defendant be detained pending sentencing.

5. RESERVATION OF ALLOCUTION

Except as limited in Paragraph 4(b), the United States reserves the right to full allocution at sentencing, including the

right to set forth at sentencing all of its evidence with respect to defendant's criminal activities.

6. RESERVATION OF RIGHT TO CONTEST THE PRESENTENCE REPORT

The United States reserves the right to inform the presentence report writer and the Court of any relevant facts, to dispute any factual inaccuracies in the presentence report and to contest any matters not provided for in this Plea Agreement.

8. RESERVATION OF RIGHT TO APPEAL AND DEFEND THE SENTENCE

The United States reserves the right to appeal the sentence in this case and reserves the right to take any position in defense of an appeal by defendant in this case.

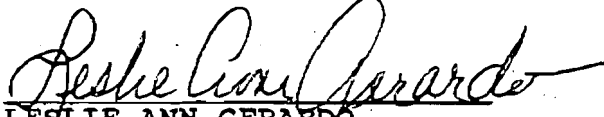
9. NO OTHER AGREEMENTS

Defendant UNDERSTANDS and AGREES that no other agreements, promises, understandings or representations have been made by the parties or their counsel other than those contained in writing herein, nor will any such agreements, promises, understandings or representations be made unless committed to writing and signed by defendant, defense counsel, and an Assistant United States Attorney for the District of Columbia.

Sincerely,

ERIC H. HOLDER, Jr.
UNITED STATES ATTORNEY

By:


LESLIE ANN GERARDO
Assistant United States Attorney

ACKNOWLEDGEMENTS

I have read the foregoing terms and conditions and I have discussed them with my attorney. I fully understand and accept them. This agreement is executed voluntarily and of my own free will. No promises, commitments, or understandings have been made to me in connection with the execution of this agreement other than those set forth above. I hereby indicate my assent and agreement to all of the terms and conditions of this agreement by my signature below.

May 11, 1995
DATE

Russell Aiuto
RUSSELL AIUTO

I am the attorney for defendant. I have carefully reviewed every part of this Plea Agreement with the defendant. It accurately and completely sets for the entire agreement between the defendant and the Office of the United States Attorney for the District of Columbia.

5/11/95
DATE

Robert A. Gingeel (SGW)
ROBERT A. GINGEEL, ESQUIRE
COUNSEL FOR DEFENDANT