

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

TO: AIGI

File Number: I96070042

Date: 28 March 2002

Subject: Closeout Memo

Page 1 of 1

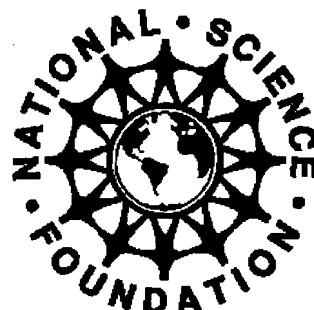
There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject¹ was alleged to have committed other improper actions. We received an allegation that the subject used an NSF computer to establish a File Transfer Protocol site to allow an exchange of copyrighted software between the computer and outside computer users. We were told this exchange was done over the course of several weeks. During our investigation, the subject admitted to the wrongdoing and resigned. NSF decided not to notify the software companies.

Accordingly this case is closed.

[REDACTED]

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



NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

31 July 1996



To:

Assistant ~~Director~~ Directorate for Biological Sciences

From:

Inspector General

Subject: Investigation No. I96070042

This report concerns _____, who is employed as a Summer appointee at NSF as an Office Automation Clerk in the Directorate for Biological Sciences (BIO). We investigated to determine whether _____ had gained unauthorized access to a computer assigned to a BIO Program Officer, for the purpose of creating an unauthorized File Transfer Protocol (FTP) site, and whether the site was used to upload and download copyrighted software in violation of federal law.¹ We have determined that _____ created, managed, and dismantled the FTP site, and that he used it to obtain various copyrighted games and applications. The Department of Justice has declined to pursue criminal action in this matter, so we are referring it to you for appropriate administrative action.

I. Background

_____ is an undergraduate student at _____ and State University. He has served on a temporary basis as an Office Automation Clerk in NSF's _____ over several periods since May 1995.² His current appointment began on 13 May 1996, and is not to exceed 30 September 1996. His duties include installation and maintenance of computers, peripheral components, and software; in addition, he assists computer users in resolving various operation issues, and performs word processing and other clerical duties.

II. Factual Summary

In early June 1996, _____ learned that a BIO Program Officer would be out of the office for an extended period of time. _____ went to the Program Officer's office, and used the Program Officer's Apple Macintosh Power PC computer to establish an FTP site, connected to the Internet. This would allow outside users to gain access to specified

¹ 17 U.S.C. §§ 501, 506; 18 U.S.C. § 2319.

² Prior dates of service are as follows: 15 May 1995 through 18 August 1995; 21 November 1995 through 12 January 1996; 11 March 1996 through 15 March 1996.

directories within the computer, and they would be able to upload files to and download files from the computer. purpose was to solicit users outside NSF to download copyrighted software from the FTP site, and to upload copyrighted software to the FTP site. This would enable to obtain additional unauthorized, copyrighted software without having to purchase it from a retail source.

used FTP software which he had obtained from the Internet to establish the FTP site. He placed copies of two copyrighted games, SimCity 2000 and Toshinden, which he had purchased commercially, on the site to be downloaded by outside users. He then advised friends of the site's existence and purpose, encouraging them and others to use it. He also placed an explanatory message on the site, with directions to users, and identified himself as "confushus" (see Attachment 1).

Over the next several weeks, hundreds of outside users gained access to the site, and many uploaded unauthorized copies of additional copyrighted software onto the site. stored the uploaded software on 3.5" floppy disks, using file compression and disk-spanning software he had brought to NSF for that purpose. He then took the disks home and installed the software on his home computer.

On 11 July 1996, NSF Division of Information Systems (DIS) technicians noticed a large number of calls coming from the Internet to an NSF computer. They discovered an FTP site on the BIO Program Officer's computer. Upon further examination of the computer, they found copies of several copyrighted software products stored in the computer's hard drive. At approximately 6:00 PM on 11 July 1996, the DIS technicians copied some of the site's files to the NSF main computer to preserve them, and left the computer site up and running. The next morning, at approximately 11:00 AM, the DIS technicians checked the Program Officer's computer and found that the FTP site had been dismantled and all of the files deleted.

At some point during the evening of 11 July or the early morning of 12 July 1996, shut down the FTP site on the Program Officer's computer and deleted the software stored on the computer's hard drive. claims that he was unaware of the site's discovery by DIS, and claims that he dismantled the site because he had obtained enough software to satisfy him. He concluded that the risk of discovery by NSF posed by the large volume of users did not justify the site's continued existence. In deleting the files, he hoped to avoid detection of the site by NSF.

On 25 July 1996, provided us with a sworn statement (see Attachment 2), in which he admitted to having established the FTP site for the purpose of obtaining unauthorized copies of copyrighted software. He admitted that he had obtained numerous games and applications software through the site (see Attachment 3). He also admitted that he had dismantled the site and deleted the software files in an attempt to avoid detection by NSF.

III. Conclusion

Because _____ actions involved potential criminal copyright infringement, we referred the matter to the Department of Justice, as required by law. The Department declined to pursue criminal action against _____ deferring to administrative action by the NSF. Accordingly, NSF should now evaluate whether administrative action would be appropriate.

In addition, the software companies that sell the copyrighted programs that _____ received and distributed freely may have civil remedies available under federal copyright law. NSF should evaluate whether it should notify these companies of _____ actions while employed by NSF.

Please advise us of the actions taken with regard to this matter.

Attachment 1

directions to users regarding how to use the FTP site