

CLOSEOUT MEMORANDUM FOR M00040020

In April 2000, an NSF program officer¹ received a letter from the complainant,² a former visiting foreign research scientist. The letter contained six allegations of misconduct in science³ against the subject,⁴ the PI on the NSF award⁵ and, indirectly, against one of the subject's graduate students.⁶ The complainant received partial support from a funded proposal from her country⁷ as well as from the NSF award in support of her travel to collaborate with the subject. When we learned that the subject's university⁸ received the same letter from the complainant and opened an inquiry, we deferred our inquiry to the University.

The University's Inquiry Committee (the Committee) concluded that no "scholarly misconduct" occurred. As part of our evaluation of the University's report, we conducted our own inquiry.

Allegation 1. The subject inappropriately included himself as a co-author on papers and symposia presentations with the complainant.

The complainant listed several papers/presentations that she co-authored⁹ with the subject. The subject provided the Committee with examples of manuscripts for some of these papers that he had annotated with suggestions and corrections. In addition, the Committee stated that letters to and from journals provided "substantial evidence that [the complainant] was the one who had corresponded with the journals involved." The Committee concluded that the subject had made significant contributions to the papers/presentations on which he was a co-author.

¹ [REDACTED] an NSF program officer [REDACTED]

² The complainant, [REDACTED] is presently in [REDACTED]

³ The complainant's letter contained numerous allegations that were not considered to be misconduct in science, but that were addressed in the University's Inquiry Report and found to be without substance.

⁴ The subject, [REDACTED]

⁵ The NSF award [REDACTED] entitled [REDACTED]

⁶ [REDACTED] The award was signed by the subject as the sole PI on [REDACTED]

⁷ [REDACTED] provided his own statement to the Committee, [REDACTED]

⁸ [REDACTED] for 6 months [REDACTED]

⁹ [REDACTED]

⁹ These papers include: The complainant and the subject, [REDACTED]

[REDACTED] It also includes a [REDACTED] article in the [REDACTED] and an article (still in review at time she wrote the letter) in the [REDACTED]

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Our review verified that almost all of the changes suggested by the subject in his annotated manuscripts appeared in the final published versions of the papers. Also, copies of numerous e-mails from the complainant to the subject depicted a productive collaborative relationship between the two scientists, including exchanges of information (copies of papers, internet search results, etc.) and discussions about how to address editors' comments on co-authored submissions. We concluded that there was no substance to the allegation that the subject inappropriately included himself as a co-author.

Allegation 2. The subject inappropriately used the complainant's unpublished numerical and graphical results in his graduate student's Master's thesis.

The complainant said she assisted the subject and the graduate student with the thesis research. She said she showed them how to use her computer program, but did not give either of them permission to use the program for anything other than to determine parameters for their experiments.

The Committee determined that neither the subject nor the graduate student used any material inappropriately. The complainant's program was already limited to generating information about various parameters and any related work was approved by the complainant. The Committee also determined that the reference provided in the thesis to the complainant's paper was an appropriate acknowledgment.

We concur with the Committee's conclusion that the citation of the complainant's paper in the thesis was adequate. There is no substance to the allegation that the subject (or his graduate student) inappropriately used the complainant's unpublished work in the Master's thesis.

Allegation 3. The subject and his graduate student used the complainant's computer programs inappropriately.

The complainant said she published one computer program.¹⁰ Although the complainant claims the subject put intense pressure on her to give him the text of her other computer programs, she said she did not give them to him. The Committee stated that the written evidence did not support the allegation, which indicated that the complainant had previously published the computer program and that the subject did not publish anything of the complainant's without proper acknowledgement.

We accept the Committee's evaluation and conclude that there is no substance to the allegation that the subject or his graduate student inappropriately used the complainant's computer programs.

Allegation 4. The subject applied for a patent for one of the complainant's inventions.

¹⁰ [REDACTED]

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The Committee learned from its University's patent attorney that the University made no applications for a patent an invention by the complainant and, as far as he knew, the subject made no independent applications. Our search of the U.S. Patent and Trademark Office online patent application database¹¹ found no patent applications in the subject's name. There is no substance to the allegation that the subject had applied for a patent for one of the complainant's inventions.

Allegation 5. The subject did not participate significantly in the preparation of the NSF award.

According to the complainant, the subject used her proposal and her paper¹² to write the NSF award. She did not provide a copy of her proposal to the Committee. She acknowledged that the subject wrote some parts of the award, and, in one statement, said that the subject commented on her proposal as well. However, she said that the ideas in the award were mostly hers.

The Committee reviewed drafted portions of the award provided by the subject. It also noted that the complainant submitted a letter as part of the NSF award stating her willingness to collaborate with the subject. The Committee concluded that the subject "did participate significantly in the preparation of the NSF" award.

There is clear evidence that, at the time the NSF award and the complainant's funded proposal were prepared, the subject and complainant had a collaborative relationship. This collaboration ended abruptly sometime after the complainant returned to her own country. The goal of the initial phase of the collaboration was to get funding to support their travel and living situations in each other's countries. As part of the initial phase, the complainant provided the subject with a copy of the manuscript she submitted 4 months later for publication, and the subject, in turn, copied about 5 pages of text, equations, and figures from the manuscript into the NSF award. None of the copied material was referenced or distinguished in any way in the award. However, given the collaborative relationship that existed at the time the NSF award was prepared, and given its purpose, it is not unreasonable to expect that the subject would have considered it appropriate to use the materials provided by the complainant. Even though the collaboration failed at a later time, the acts by the subject, judged by the expectations of the collaborative relationship that existed at the time, support the conclusion that the subject did nothing wrong. Only the subject was qualified to submit the NSF proposal (the complainant is not a U.S. resident), which he did, and the funds in the award were for participant support and travel. There is no substance to the allegation that the subject did not participate significantly in the preparation of the NSF award. Further, his use of the complainant's materials was appropriate given the relationship that existed when the award was prepared.

¹¹ <http://patents.uspto.gov/>

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Allegation 6: The subject and his graduate student published experimental results in the thesis that were false.

The complainant said that the subject and the graduate student did not use her computer program correctly, which resulted in false data in the graduate student's thesis. The subject explained that there was nothing false in the results, but instead the data contained errors he failed to catch. The Committee determined that the student was sloppy and the subject did a poor job of editing the thesis. It concluded this was a clerical error, not misconduct in science.

At our request, the University provided more detailed information, including the figures involved and the specific errors on each. We concur with the Committee's conclusion. Honest error is not misconduct in science.

This inquiry is closed and no further action will be taken.

cc: Investigations, IG