

**CLOSEOUT FOR M91020012**

This case was brought to the attention of OIG by Dr. [REDACTED] (the complainant) on June 26, 1990. She was formerly a postdoctoral fellow in the laboratory of Dr. [REDACTED] (the subject) of the [REDACTED]. In a telephone call to OIG, the complainant alleged intellectual theft and misappropriation of patent rights. In a February 12, 1991 letter to OIG, she recounted the events that were the basis for her complaints and subsequently sent OIG additional materials relevant to her law suit against the subject and his university.

The complainant began work in the subject's laboratory in 1983, bringing with her a [REDACTED] with certain scientifically interesting and potentially commercially valuable properties. She and the subject submitted a proposal to NSF ([REDACTED]), entitled "[REDACTED]" to study this [REDACTED]. They received funding from the [REDACTED] Program in the Directorate [REDACTED]. The subject was the PI on this award, and the complainant was the co-PI. The complainant contends that she then made valuable discoveries. Her alleged discoveries led her and the subject to jointly file a patent disclosure form with the university in January, 1987. The university informed NSF of the alleged invention. Insofar as the allegations involve a patent application based on NSF sponsored research, OIG determined that we had jurisdiction over those allegations that might constitute misconduct in science, even if the allegations concerned events that took place after the NSF grant was closed.

OIG concluded that there was no evidence of intellectual theft in this case. The complainant consistently characterized the subject as a collaborator, and the subject always presented the work in ways that indicated that the complainant had major responsibility for it. The subject's claims of credit for the work done in a laboratory he headed under an award for which he was PI do not seriously deviate from accepted practice. The subject did not misrepresent himself as doing the "[REDACTED] science" that led to the alleged discovery or misrepresent the complainant's contribution to that alleged discovery.

The allegation of misappropriation of patent rights is based on the subject's unilateral decision to withdraw the patent

CLOSEOUT FOR M91020012

disclosure. The subject claims to have doubted whether the discovery was genuine, and he sought independent verification from other scientists working in his laboratory. When the complainant refused to permit these other scientists access to the materials necessary to verify her results, the subject asked the complainant to leave his laboratory, but offered her full rights to the alleged discovery. There is no evidence that the subject claimed the alleged discovery as his own. By withdrawing the patent disclosure, the subject made it possible for the complainant to pursue the commercial possibilities of her alleged discovery independent of the subject or his university. The withdrawal did not jeopardize the complainant's priority claims for her discovery, since there is no evidence that other scientists were working on the same [REDACTED]. The complainant offers no evidence, beyond unsubstantiated rumors, that the subject ever attempted to exploit the commercial potential of the complainant's alleged discovery. OIG was unable to examine the only two NSF proposals that the subject submitted on this topic for evidence of misconduct because NSF no longer has copies of them.

The complainant takes umbrage at the subject's decision to assign additional scientists to work on the project the complainant brought to his laboratory. But the customs of the scientific community accord the subject, as PI on a grant to develop the complainant's research ideas and head of the laboratory, broad discretion about how to meet his grant obligations. OIG concluded that the subject's actions did not seriously deviate from the accepted practices when PIs disagree with their co-PIs about how to accomplish the work and verify the results of their grant supported research.

The complainant made numerous allegations of unfair treatment by the subject and his university. These have been resolved in court. The court found that the complainant's employment was terminated without sufficient notice, but in other respects it found for the subject and his university. None of these allegations involves matters where there is reason to believe that the standards of the scientific community are meaningfully different from those of the wider society and its courts. OIG therefore believes that we should treat the court's determination as authoritative in this case and that it is superfluous and unfair to reexamine these allegations on their merits.

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