



NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: I09050025

Page 1 of 1

The OIG initiated an investigation based on a referral from an NSF-funded educational institution¹ that an employee² had been terminated due to theft.

Our investigation substantiated that the employee used her position as an accounts payable clerk to fraudulently prepare and issue checks to herself and a friend totaling \$16,764.29. The employee's fraud involved \$1,723 in federal award funds, none from NSF.³

The District Attorney's Office, Sawyer County, State of Wisconsin, charged the former employee with felony and misdemeanor theft. The employee pled guilty to felony theft and no contest to five counts of misdemeanor theft. The court entered convictions for the misdemeanor counts and sentenced the employee to nine months confinement (stayed pending completion of three years probation) and ordered the employee to pay \$21,764.29 restitution (including investigation costs) and to comply with the terms of her probation. The court withheld entry of judgment for the felony count pursuant to an agreement to dismiss the count in five years, pending successful completion of probation and payment of restitution.

OIG recommended NSF debar the employee for three years, based on her criminal conviction. On July 16, 2010, NSF debarred the employee for three years through July 15, 2013.

Attached are the Judgment of Criminal Conviction⁴, our debarment recommendation,⁵ NSF's Notice of Proposed Debarment,⁶ and NSF's Debarment notice.⁷

This case is closed.

¹ Lac Courte Oreilles Ojibwe Community College.

² Jennifer Johnson, former Accounts Payable Clerk, Lac Courte Oreilles Ojibwe Community College.

³ Initial reports indicated some of the checks were drawn from a restricted account using funds designated for an NSF award. Subsequent investigation determined that the checks had in fact been drawn from an unrestricted account unrelated to NSF funding.

⁴ Tab 1

⁵ Tab 2

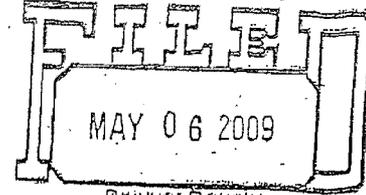
⁶ Tab 3

⁷ Tab 4

State of Wisconsin vs. Jennifer L. Johnson

Judgment of Conviction

Sentence Imposed & Stayed,
Probation Ordered



Date of Birth:

Case No.: 2008CF000169

The defendant was found guilty of the following crime(s):

Ct.	Description	Violation	Plea	Severity	Date(s) Committed	Trial To	Date(s) Convicted
2	Theft-Business Setting <=\$2500	943.20(1)(b)	No Contest	Misd. A	03-20-2009		05-06-2009
3	Theft-Business Setting <=\$2500	943.20(1)(b)	No Contest	Misd. A	03-20-2009		05-06-2009
4	Theft-Business Setting <=\$2500	943.20(1)(b)	No Contest	Misd. A	03-20-2009		05-06-2009
5	Theft-Business Setting <=\$2500	943.20(1)(b)	No Contest	Misd. A	03-20-2009		05-06-2009
6	Theft-Business Setting <=\$2500	943.20(1)(b)	No Contest	Misd. A	03-20-2009		05-06-2009

IT IS ADJUDGED that the defendant is guilty as convicted and sentenced as follows:

Ct.	Sent. Date	Sentence	Length	Agency	Comments	Sent. Credit
2	05-06-2009	Probation, sent imposed	3 YR	Department of Corrections		
3	05-06-2009	Probation, sent imposed	3 YR	Department of Corrections		
4	05-06-2009	Probation, sent imposed	3 YR	Department of Corrections		
5	05-06-2009	Probation, sent imposed	3 YR	Department of Corrections		
6	05-06-2009	Probation, sent imposed	3 YR	Department of Corrections		
Sentence(s) Stayed					Comments	Sent. Credit
2	Local jail		9 MO		IMPOSED AND STAYED HUBER AUTHORIZED	
3	Local jail		9 MO		IMPOSED AND STAYED HUBER AUTHORIZED	
4	Local jail		9 MO		IMPOSED AND STAYED HUBER AUTHORIZED Concurrent with: CT. # 2	
5	Local jail		9 MO		IMPOSED AND STAYED HUBER AUTHORIZED Concurrent with: CT. # 2	
6	Local jail		9 MO		IMPOSED AND STAYED HUBER AUTHORIZED Concurrent with: CT. # 2	

Sentence Concurrent With/Consecutive Information:

Ct.	Sentence	Type	Concurrent with/Consecutive To	Comments
3	Probation, sent imposed	Concurrent	CT. # 2	
4	Probation, sent imposed	Concurrent	CT. # 2	
5	Probation, sent imposed	Concurrent	CT. # 2	
6	Probation, sent imposed	Concurrent	CT. # 2	

State of Wisconsin vs. Jennifer L. Johnson

Judgment of Conviction

Sentence Imposed & Stayed,
Probation Ordered

Date of Birth:

Case No.: 2008CF000169

Conditions of Sentence or Probation

Obligations: (Total amounts only)

Fine	Court Costs	Attorney Fees	<input type="checkbox"/> Joint and Several Restitution	Other	Mandatory Victim/Wit. Surcharge	5% Rest. Surcharge	DNA Anal. Surcharge
50.00	100.00		21,764.25	40.00	300.00		

Conditions

Ct.	Condition	Length	Agency/Program	Begin Date	Begin Time	Comments
2	Jail time	40 DA	Sawyer County Jail	06-03-2009	03:00 pm	
3	Jail time	40 DA	Sawyer County Jail	06-03-2009	03:00 pm	
4	Jail time	40 DA	Sawyer County Jail	06-03-2009	03:00 pm	
5	Jail time	40 DA	Sawyer County Jail	06-03-2009	03:00 pm	
6	Jail time	40 DA	Sawyer County Jail	06-03-2009	03:00 pm	

Ct.	Condition	Agency/Program	Comments
2	Restitution		Restitution to be paid to LCO Community College.
2	Costs		
2	Work release / Huber law		
3	Costs		
3	Work release / Huber law		
4	Costs		
4	Work release / Huber law		
5	Costs		
5	Work release / Huber law		
6	Costs		
6	Work release / Huber law		

Conditions Concurrent With/Consecutive Information:

Ct.	Condition	Type	Concurrent with/Consecutive To	Comments
3	Jail time	Concurrent	CT. # 2	
4	Jail time	Concurrent	CT. # 2	
5	Jail time	Concurrent	CT. # 2	
6	Jail time	Concurrent	CT. # 2	

Pursuant to §973.01(3g) and (3m) Wisconsin Statutes, the court determines the following:

Defendant is is not eligible for the Challenge Incarceration Program.

Defendant is is not eligible for the Earned Release Program.

IT IS ADJUDGED that 0 days sentence credit are due pursuant to § 973.155, Wisconsin Statutes

IT IS ORDERED that the Sheriff shall deliver the defendant into the custody of the Department.

State of Wisconsin vs. Jennifer L. Johnson

Judgment of Conviction

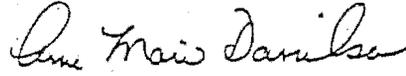
Sentence Imposed & Stayed,
Probation Ordered

Date of Birth:

Case No.: 2008CF000169

Norman L. Yackel, Judge
Thomas E Van Roy, District Attorney
Martin Jarvis, Defense Attorney
Department of Corrections
County Sheriff

BY THE COURT:



~~Circuit Court Judge/Clerk/Deputy Clerk~~

May 6, 2009

Date



National Science Foundation • 4201 Wilson Boulevard • Arlington, Virginia 22230
Office of the Inspector General

DEC 30 2009

To: Arden L. Bement, Jr.
Director

From: *Allison C. Lerner*
Allison C. Lerner
Inspector General

Subject: Recommendation for Debarment Action (OIG Case No. I09050025)

Attached is our recommendation for debarment of Jennifer Johnson, former Accounts Payable Clerk at Lac Courte Oreilles Ojibwa Community College for conviction of theft that resulted in a financial loss to the community college totaling \$16,764.29. While there was no financial loss to NSF, Johnson's theft included \$1,723 from federal award funds, and placed NSF award funds at risk.

We recommend that NSF debar Ms. Johnson for a period of three years. We believe this action will adequately protect NSF's interests. Our recommendation and supporting facts are in the attached report. Ms. Johnson was not provided with a copy of this report nor was she provided an opportunity to comment due to her criminal conviction.

If you have any questions about the report or our recommendation, I would be happy to discuss them with you. My staff point of contact for this matter is James Evans at extension 7398.

Attachment

cc: Lawrence Rudolph, General Counsel
Joan Frye, Office of Director's Liaison to OIG

National Science Foundation Office of Inspector General



Confidential
Report of Investigation
Case Number I09050025
December 30, 2009

This Confidential Report of Investigation is the property of the NSF-OIG and may be disclosed outside NSF only by OIG under the Freedom of Information and Privacy Acts, 5 U.S.C. §§ 552, 552a.

Executive Summary

Allegation: On May 11, 2009, Lac Court Oreilles Ojibwa Community College (College) notified NSF-OIG that a former employee issued fraudulent payments to herself from the College checking account. OIG initiated an investigation because the College receives federal award funding, including an NSF award.¹

Subject: Jennifer Johnson, College Accounts Payable Clerk, 2000 to 2008.

OIG Investigation: OIG substantiated that Johnson misappropriated \$16,764.29: \$11,121.13 from the College's restricted account² and, \$5,643.16 from the College's unrestricted account.³ Johnson used her position as an accounts payable clerk to fraudulently prepare and issue checks to herself and a friend totaling \$16,764.29. Although NSF award funds were not involved, Johnson's fraud involved \$1,723 in federal award funds.

Prosecution: The District Attorney's Office, Sawyer County, State of Wisconsin, prosecuted the criminal case against Johnson. Johnson was charged with a felony theft, in violation of Wisconsin Statue 943.20(1)(b)& (3)(c) and misdemeanor theft, in violation of Wisconsin Statue 943.20(1)(b) & (3)(a). Johnson pled Guilty to the felony theft and No Contest to five counts of misdemeanor theft. Johnson was ordered to pay \$21,764.29 in restitution, of which \$16,764.29 was reimbursement of the amount stolen and \$5,000 was reimbursement of the College's investigative costs. Johnson was also ordered to comply with the terms of her probation.

OIG Recommendation: Based upon the facts described herein, OIG recommends that NSF debar Johnson for a period of three years.

¹ [REDACTED]

² The College receives award funding from various organizations, including the federal government. The College explained that its award funding is maintained in a restricted account. The College uses funds from the restricted account solely to finance awards.

³ The College explained its unrestricted account maintains funds derived from student tuitions and other fees. The College uses funds from the unrestricted account primarily to pay for general services.

I. OIG INVESTIGATION

A. Factual Background

On May 11, 2009, Lac Courte Oreilles Ojibwa Community College (the College) reported to NSF OIG that a former employee,⁴ (the Subject), fraudulently issued checks from the College checking account. The Subject had served as an accounts payable clerk for approximately eight years where she was responsible for issuing checks to legitimate vendors.

In September 2008, the College was unable to reconcile its checking account. Upon further review, the College subsequently found checks paid to Johnson but not recorded in the accounting system. Suspecting fraud, the College hired a firm⁵ to investigate the checks paid to Johnson. The firm found that the Subject prepared and issued 43 unauthorized checks from the college checking account between March and October of 2008. In 43 instances, the Subject withheld payments to legitimate vendors; instead, she issued fraudulent payments to herself and a friend. The Subject cashed the majority of the fraudulent checks.

In total, the Subject misappropriated \$16,764.29, and the College incurred financial damages in that amount. The Subject's fraud included the misappropriation of \$1,723 in federal award funds. Johnson's fraud did not involve NSF award funds.

The College suspended the Subject on October 16, 2008, and subsequently terminated her due to her fraud. The College referred Johnson's fraud to the District Attorney's Office, Sawyer County, Wisconsin.

B. OIG Review and Assessment

The OIG obtained official court documents from the Sawyer County Court. Court records show that on May 6, 2009, a district attorney filed a criminal information charging the Subject with a felony theft in a business setting of over \$10,000, in violation of Wisconsin Statue 943.20(1)(b) & (3)(c), and five counts of misdemeanor theft in a business setting of under \$2,500, in violation of Wisconsin Statues 943.20(1)(b)& (3)(a). The Information is attached as Tab 1.

On May 6, 2009, the Subject pled No Contest to the five counts of misdemeanor theft. For the misdemeanor convictions, Johnson was sentenced to nine months in a local jail (stayed); and to three years probation. A copy of the Judgment of Conviction is attached as Tab 2. On May 6, 2009, Johnson also pled Guilty to one count felony theft in violation of Wisconsin Statue 943.20(1)(b) & (3)(c). Johnson was ordered to pay restitution to the College in the amount of \$21,764.29 (\$16,764.29 for financial losses and \$5,000 for cost of investigation), complete 100 hours of community service, and comply with the terms of her probation for the misdemeanor theft conviction. A copy of the Deferred Judgment of Conviction Agreement signed by the Sawyer County Circuit Judge is attached as Tab 3.

⁴ Jennifer Johnson, former Accounts Payable Clerk, the College.

⁵ [REDACTED]

II. DEBARMENT

A. Grounds for Debarment

NSF may debar a person for "Conviction . . . for . . . Commission of embezzlement, theft . . . or . . . Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects [the person's] present responsibility" ⁶ The Subject pled Guilty to violating Wisconsin Statute 943.20(1)(b)& (3)(c) for acts constituting felony theft over \$10,000. The subject also pled No Contest to misdemeanor theft in violation of Wisconsin Statute 943.20(1)(b) & (3)(a) and her conduct indicates a lack of business integrity and honesty.

B. Burden of Proof

In debarment actions, the burden of proof lies with NSF to demonstrate by a preponderance of the evidence that cause for debarment exists. ⁷ "If the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met." ⁸ Since this proposed debarment is based on the Subject's conviction for felony and misdemeanor theft violations, the burden of proof is met.

C. Relevant Factors

The debarment regulation lists 19 factors for the debarring official to consider. ⁹ The following factors are pertinent to this case:

1. Actual or Potential Harm or Impact ¹⁰

As a result of the Subject's theft, the College incurred a financial loss of \$16,764.29. While there was no direct loss to NSF, the Subject's theft of \$16,764.29 from the College, including \$1,723 from federal award funds, placed NSF award funds at risk. More egregious cases with a similar pattern have been successfully prosecuted under 18 USC 666.

2. Frequency or Duration of Incidents ¹¹

Over a 7 month period in 2008, the Subject prepared 43 fraudulent checks paid to herself and a friend that totaled \$16,764.29.

⁶ 2 C.F.R. § 180.800(a)(3) & - (4)

⁷ 2 C.F.R. § 180.850(a) & -.855

⁸ 2 C.F.R. § 180.850(b)

⁹ 2 C.F.R. § 180.860

¹⁰ 2 C.F.R. § 180.860(a)

¹¹ 2 C.F.R. § 180.860(b)

3. Pattern of Wrongdoing¹²

On 43 occasions, the Subject fraudulently prepared checks to herself and a friend from the College checking account during a 7 month period in 2008.

4. Role in Wrongdoing¹³

The Subject used her position as an accounts payable clerk to fraudulently issue checks to herself and a friend instead of legitimate College vendors.

5. Acceptance of Responsibility¹⁴

The Subject did not accept responsibility for her actions until the College detected that she misappropriated funds.

6. Repayment¹⁵

As part of sentencing, the Court ordered the Subject to make restitution to the College in the amount of \$21,764.29.

7. Cooperation of the Subject¹⁶

The Subject pled to a felony theft violation. The Subject did not cooperate until the College detected her fraud.

8. Position Held by Subject¹⁷

The Subject served as an account payables clerk and had fiduciary responsibilities to issue checks associated with college funds and federal funds, including NSF award funds. The Subject misused her position and issued 43 fraudulent checks from the College checking account and made false charges in to federal awards in the amount of \$1,723.

II. Recommendations

Despite the Subject's termination from the College and criminal conviction, she possesses skills to be hired in a position of fiduciary responsibility associated with federal award funds. To protect the interests of the public, NSF, and the federal government, we recommend that NSF debar the Subject for three years.

¹² 2 C.F.R. § 180.860(c)

¹³ 2 C.F.R. § 180.860(f)

¹⁴ 2 C.F.R. § 180.860(g)

¹⁵ 2 C.F.R. § 180.860(h)

¹⁶ 2 C.F.R. § 180.860(h)

¹⁷ 2 C.F.R. § 180.860(k)

Attachments:

- Tab 1 Subject's Criminal Information, dated May 6, 2009
- Tab 2 Subject's Judgment of conviction, dated May 6, 2009
- Tab 3 Subject's Deferred Judgment of Conviction Agreement, dated May 6, 2009

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DEPUTY DIRECTOR

APR 30 2010

CERTIFIED MAIL --RETURN RECEIPT REQUESTED

Ms. Jennifer Johnson

Re: Notice of Proposed Debarment

Dear Ms. Johnson:

In light of your misconduct, this letter serves as formal notice that the National Science Foundation ("NSF") is proposing to debar you from directly or indirectly obtaining the benefits of Federal grants for three years. During your period of debarment, you will be precluded from receiving Federal financial and non-financial assistance and benefits under non-procurement Federal programs and activities. In addition, you will be prohibited from receiving any Federal contracts or approved subcontracts under the Federal Acquisition Regulations ("FAR"). Lastly, during your debarment period, you will be barred from having supervisory responsibility, primary management, substantive control over, or critical influence on, a grant, contract, or cooperative agreement with any agency of the Executive Branch of the Federal Government.

Reason for Debarment

Your debarment is based upon a referral from NSF's Office of Inspector General ("OIG"). NSF's record demonstrates that you pleaded guilty to one count of felony theft. You were also convicted of five additional counts of misdemeanor theft. You engaged in this misconduct during your tenure as an accounts payable clerk at Lac Courte Oreilles Ojibwa Community College. As a result of your misconduct, you were sentenced to three years probation. You were also ordered to pay restitution in the amount of \$21,764.29, and to complete 100 hours of community service.

Regulatory Basis for Debarment

Pursuant to 2 CFR 180.800, debarment may be imposed for:

(b) 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; or ...

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

In any debarment action, the government must establish the cause for debarment by a preponderance of the evidence. 2 CFR 180.850. If, as in this case, the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met. *Id.* Therefore, your conviction for theft supports a cause for debarment under 2 CFR 180.800(a)(1) and (3).

Length of Debarment

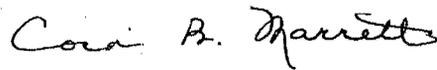
Debarment must be for a period commensurate with the seriousness of the causes upon which an individual's debarment is based. 2 CFR 180.865. Generally, a period of debarment should not exceed three years but, where circumstances warrant, a longer period may be imposed. *Id.* Having considered the seriousness of your actions, as well as the relevant aggravating and mitigating factors set forth in 2 CFR 180.860, we are proposing debarment for a period of three years.

Procedures Governing Proposed Debarment

The provisions of 2 CFR Sections 180.800 through 180.885 govern debarment procedures and decision-making. 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 this proposed debarment. 2 CFR 180.815, 180.820. Please note, however, that because your debarment is based on a conviction, you will not have an opportunity to challenge the facts underlying the conviction. 2 CFR 180.830(a). Comments submitted within the 30-day period will receive full consideration and may lead to a revision of the recommended disposition. If NSF does not receive a response to this notice within the 30-day period, this debarment will become final.

Any response should be addressed to Lawrence Rudolph, General Counsel, National Science Foundation, Office of the 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 FAR Subpart 9.4.

Sincerely,

A handwritten signature in cursive script that reads "Cora B. Marrett".

Cora B. Marrett
Acting Deputy Director

Enclosures:
Nonprocurement Debarment Regulations
FAR Regulations

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DEPUTY DIRECTOR

JUL 16 2010

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Jennifer Johnson

Re: Debarment

Dear Ms. Johnson:

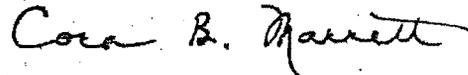
On April 30, 2010, the National Science Foundation ("NSF") sent you a Notice of Proposed Debarment in which NSF proposed to debar you from directly or indirectly obtaining the benefits of Federal grants for three years. The Notice sets forth in detail the circumstances giving rise to NSF's decision to propose your debarment. Specifically, NSF indicated in the Notice that the proposed debarment is based upon your guilty plea to one count of felony theft, and your conviction on five additional counts of misdemeanor theft. In that Notice, NSF provided you with thirty days to respond to the proposed debarment.

Over thirty days have elapsed and NSF has not received a response. Accordingly, you are debarred until July 15, 2013. Debarment precludes you from receiving Federal financial and non-financial assistance and benefits under non-procurement Federal programs and activities unless an agency head or authorized designee makes a determination to grant an exception in accordance with 2 CFR Section 180.135. Non-procurement transactions include grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements.

In addition, you are prohibited from receiving Federal contracts or approved subcontracts under the Federal Acquisition Regulations ("FAR") at 48 CFR Subpart 9.4 for the period of this debarment. 2 CFR Section 180.170. During the debarment period, you may not have supervisory responsibility, primary management, substantive control over, or critical influence on, a grant, contract, or cooperative agreement with any agency of the Executive Branch of the Federal Government.

If you have any questions regarding the foregoing, please contact Eric S. Gold, Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia, 22230.

Sincerely,

A handwritten signature in cursive script that reads "Cora B. Marrett". The signature is written in dark ink and is positioned above the typed name.

Cora B. Marrett
Acting Deputy Director