



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

## CLOSEOUT MEMORANDUM

Case Number: I09070040

Page 1 of 2

We initiated an investigation into the potential misuse of NSF funds by a university<sup>1</sup> professor<sup>2</sup> (Subject), who was the PI on two NSF grants<sup>3</sup> at issue.

We obtained, reviewed and analyzed all associated grant records and accounting documentation; performed an inventory of equipment purchased to determine whether and to what extent items purchased by the Subject and charged to the NSF grant funds or university matching funds were missing; and conducted several interviews, including interviews with university faculty, students and administrators.

We determined the Subject misappropriated more than \$220,000 in NSF and cost sharing funds to purchase high-end photography equipment and accessories, surveillance equipment, and specialized printers. Forensic analysis of the Subject's NSF-funded computers revealed over 5,000 personal photos that were connected to NSF-funded cameras. We also determined the Subject made materially false statements to NSF and university officials regarding his/her use of grant and/or matching funds.

Concurrently with our investigation, the university conducted an internal investigation and determined that, while employed by the university, the Subject improperly charged equipment purchases to the two NSF grants and associated university cost share accounts, and falsely justified the purchases as appropriate grant expenses. As a result, the university dismissed the Subject from his/her tenure position.

Based on our recommendation, NSF suspended two active NSF awards<sup>4</sup> under the direction of the Subject. Once the university dismissed the Subject, NSF terminated those two awards based on our recommendation. As a result, \$325,598 was put to better use.

Shortly after his/her termination from the university, the Subject formed a small business<sup>5</sup> and submitted Small Business Innovation Research (SBIR) proposals to NASA and NSF. The NASA proposal was declined and the NSF proposal was funded; however, we recommended NSF terminate the grant shortly after it was awarded and before its effective date. Due to the Subject's demonstrated lack of present responsibility, we sought government-wide suspension. The Subject and the SBIR company were suspended on [REDACTED].

[REDACTED]



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## CLOSEOUT MEMORANDUM

Case Number: I09070040

Page 2 of 2

We referred the matter to the U.S. Attorney's Office for the Northern District of Indiana, which accepted the case. Subsequently, the Subject was indicted on three counts of 18 U.S.C. § 666(a)(1)(A), Theft from Program Receiving Federal Funds, and four counts of 18 U.S.C. § 1341, Mail Fraud.<sup>6</sup> The Subject pled guilty to the first count of 18 U.S.C. § 666(a)(1)(A).<sup>7</sup> The Court sentenced him/her to home confinement for six months and probation for two years, and ordered him/her to pay \$32,542 in restitution.

Following the sentencing, we recommended NSF debar the Subject and the SBIR company for 10 years.<sup>8</sup> Since they had been suspended since [REDACTED] 2011, NSF took that into consideration, reduced the debarment period accordingly, and debarred the Subject and the company until [REDACTED] 2021.<sup>9</sup> NSF also prohibited the Subject from serving as an NSF reviewer, advisor or consultant during the period of debarment.

Accordingly, this case is closed.

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<sup>6</sup> See attached (Indictment)

<sup>7</sup> See attached (Plea agreement)

<sup>8</sup> See attached (debarment recommendation)

<sup>9</sup> See attached (Notice of Proposed Debarment)

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA )

INDICTMENT

v. )

18 U.S.C. § 666(A)(1)(A)

18 U.S.C. § 1341 )

CAUSE NUMBER: [REDACTED]

THE GRAND JURY CHARGES:

COUNTS 1 - 3

(Theft from Program Receiving Federal Funds Under 18 U.S.C. § 666(A)(1)(A))

During each of the one-year periods set forth below according to each count, within the Northern District of Indiana and elsewhere,

[REDACTED],  
being an agent of the [REDACTED] an organization that received in a one-year period benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy or other forms of federal assistance, did knowingly embezzle, steal, obtain by fraud, converted to another, or intentionally misapplied money or property valued at \$5,000 and more, which was owned by and under the care, custody, and control of [REDACTED]:

COUNT	DATES
1	February 1, 2006 - January 31, 2007
2	August 1, 2007 - July 31, 2008
3	August 1, 2008 - July 31, 2009

All in violation of title 18, United States Code, Section 666(a)(1)(A).

**THE GRAND JURY FURTHER CHARGES:**

**COUNTS 4-7  
(Mail Fraud Under 18 U.S.C. § 1341)**

Beginning on a date unknown to the Grand Jury and continuing up to and including July 31, 2009, within the Northern District of Indiana and elsewhere,

did knowingly devise and intend to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and omissions of material fact.

On or about the dates set forth below, within the Northern District of Indiana, and elsewhere,

for the purpose of executing the above-described scheme, caused the checks to be sent and delivered by the United States Postal Service and private commercial interstate carriers, as set forth below:

<b>COUNT</b>	<b>DATE</b>	<b>ITEM</b>
4	July 26, 2006	Check No. 01135076 \$46,526.84 to Dodd Camera and Video (PO #P1401436)
5	December 7, 2007	Check No. 01218066 \$3,038.23 to Dotworkz (PO #P1455758)

6	April 23, 2008	[REDACTED] Check No. 01237215 \$10,241.71 to Genes Camera Store (POs #P1472980, #P1473502, and #P1476888)
7	April 1, 2009	[REDACTED] Check No. 01288978 \$13,910.29 to Genes Camera Store (PO #P1506796)

All in violation of Title 18, United States Code, Section 1341.

A TRUE BILL:

s/Grand Jury Foreperson  
 Grand Jury Foreperson

APPROVED BY:

DAVID CAPP  
 UNITED STATES ATTORNEY

By:

[REDACTED]  
 [REDACTED]  
 Assistant United States Attorney

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA

v.

[REDACTED]

)  
)  
)  
)  
)

CAUSE NUMBER:

[REDACTED]

**PETITION TO ENTER A PLEA OF GUILTY**

The Defendant above named respectfully represents to the Court as follows:

1. My full true name is [REDACTED] and I request that all proceedings against me be had in the name which I here declare to be my true name.
2. I have attended school and I have the ability to read, write, and speak the English language.
3. I am represented by counsel and my lawyer's name is [REDACTED].
4. I have received a copy of the Indictment and have read and discussed it with my lawyer, and believe and feel that I understand every accusation made against me in this case.
5. I have told my lawyer the facts and surrounding circumstances as known to me concerning the matters mentioned in the Indictment and believe and feel that my lawyer is fully informed as to all such matters. My lawyer has since informed me and has counseled and advised with me as to the nature and cause of every accusation against me and as to any possible defenses I might have in this case.

6. I understand that I am entitled to have all of my rights which may be involved in this matter explained to me, and that I have the right to have any questions I may have answered for me.

7. I understand that I have a right to plead NOT GUILTY to any offense charged against me, and that under a plea of NOT GUILTY the Constitution guarantees me:

(a) the right to a speedy and public trial by a twelve-person jury of my peers, selected according to law, in the Northern District of Indiana which must return a unanimous verdict of GUILTY before I can be convicted;

(b) the right to be released on reasonable bail until my trial occurs;

(c) the right to see, hear, and cross-examine all the witnesses against me at my trial;

(d) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor at my trial;

(e) the right to the assistance of counsel at every stage of the proceedings, including upon an appeal if need be;

(f) the right not to testify without prejudice; and,

(g) that in the event that I should be found GUILTY of the charge against me, I would have the right to appeal my conviction on such charge to a higher court.

8. I understand, also, that if I plead GUILTY, I waive the right to trial by jury and all of the other rights mentioned above.

9. Notwithstanding the above, I have, with the assistance of counsel, entered into an agreement with the United States Attorney's Office as follows:

(a) I agree to plead guilty to Count 1 of the Indictment that charges me with Theft from Program Receiving Federal Funds in violation of Title 18, United States Code, Sections 666, because I am GUILTY of these offenses;

(b) I agree with the following facts:

"I purchased a camera valued at over \$5,000 in United States Currency in July of 2005 with funds granted by NSF for a science project through the [REDACTED]. The project had received over \$10,000 in United States Currency in a one year period under the grant. This camera was purchased by myself for personal, professional use, and to assist myself on the grant work. However, the camera was not part of the approved grant or project approved by the NSF nor did I get approval to use the camera for personal matters.";

(c) I further understand that the maximum possible penalty for a violation of Title 18, United States Code, Section 666, is imprisonment of up to ten (10) years and a fine of up to \$250,000, a term of supervised release of up to three (3) years, and a mandatory \$100 special assessment due at the time of sentencing;

(d) I understand that under the U.S. Sentencing Guidelines, the Court, in light of an investigation by the United States Probation Office, will determine the applicable sentencing guideline range, and that the Court will determine all matters, whether factual or legal, relevant to the application of the sentencing guidelines including, but not limited to, the adjusted offense level, the relevant circumstances in the case, the criminal history points and category, relevant conduct, the grouping of offenses, victim-related adjustments, role in the offense adjustments, career offender status, criminal livelihood and acceptance of responsibility as well as possible departures from the application of the U.S. Sentencing Guidelines. I understand that the U.S. Sentencing Guidelines are advisory only, and that the specific sentence to be imposed upon me will be determined by the judge after a consideration of a pre-sentence investigation report, input from counsel for myself and the government, federal sentencing statutes, and the U.S. Sentencing Guidelines;

(e) I understand that the law gives a convicted person the right to appeal the conviction and the sentence imposed; I also understand that no one can predict the precise sentence that will be imposed, and that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for my offense(s) as set forth in this Plea Agreement; with this understanding and in consideration of the government's entry into this Plea Agreement;

**I expressly waive my right to appeal or to contest my conviction and my sentence or the manner in which my conviction or my sentence was determined or imposed, to any Court on any ground, including any claim of ineffective assistance of counsel unless the claimed ineffective assistance of counsel relates directly to this waiver or its negotiation, including any appeal under Title 18, United States Code, Section 3742, or any post-conviction proceeding, including but not limited to, a proceeding under Title 28, United States Code, Section 2255;**

(f) I also agree to prepare a complete and truthful Financial Statement provided by the United States Attorney's Office and return the Statement to the United States Attorney's Office on the date this Plea is entered. This Financial Statement will be used to enforce the Court's sentence;

(g) The parties make the following recommendations:

- (i) The government agrees to recommend a two (2) level reduction for acceptance of responsibility pursuant to § 3 E1.1(a). The government further agrees to make a motion under § 3E1.1(b) for an additional one (1) level reduction for acceptance of responsibility in the event defendant's applicable offense level is found to be a Level 16 or greater. I understand that the government's obligation to recommend acceptance of responsibility pursuant to this Plea Agreement is contingent upon my continuing manifestation of acceptance of responsibility. Should I deny my involvement, give conflicting statements of my involvement, or engage in additional criminal conduct such as the personal use of controlled substances, I further understand that the government shall not be bound to recommend the reduction based upon acceptance of responsibility;
- (ii) The government agrees to dismiss the remaining Counts at sentencing;

(h) I understand that the government has reserved the right to tell the Court the good things about me and the bad things about me, and to fully inform the Court of the nature and extent of my of my offense;

(i) I further understand that the Court is not bound by any of these recommendations and that **I AM NOT ENTITLED TO WITHDRAW THIS GUILTY PLEA** if the Court decides not to accept these recommendations, except as outlined in paragraph 9(o);

(j) The Defendant agrees to waive all rights, whether asserted directly or through a representative, to request or receive from the United States any further records, reports, or documents pertaining to the investigation or prosecution of this matter. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974. Further, the Defendant acknowledges that he has received all discovery required by law prior to the entry of this Plea and that he has reviewed the same with his attorney;

(k) Other than what is contained in this Plea Agreement, no predictions, promises or representations have been made to me as to the specific sentence that will be imposed;

(l) As a term of this Plea Agreement, the parties agree that restitution in this matter is \$32,542 and the Defendant agrees to make restitution to the National Science Foundation in the amount of \$32,542;

(m) The United States Attorney's Office for the Northern District of Indiana has agreed not to pursue any additional charges on reports it has concerning this Defendant that it has in its possession at this time. The United States Attorney's Office for the Northern District of Indiana has also agreed to seek and support immunity in other jurisdictions on those matters that have not been charged; and

(n) The parties further agree under the provisions of Rule 11(c)(1)(c) to make a recommendation of a binding home detention in this matter. This binding recommendation is contingent on the defendant continuing his cooperation with law enforcement. If the court cannot accept this Agreement, the Defendant is free to withdraw this Plea Agreement.

(o) The defendant will request and the government will not object to a home detention assignment at [REDACTED] due to an employment opportunity.

10. I am prepared to state to the Court my reasons based on the facts in this matter that cause me to believe that I am GUILTY as charged.

11. I believe and feel that my lawyer has done all that anyone could do to counsel and assist me, and that I now understand the proceedings in this case against me.

12. I declare that I offer my Plea of GUILTY freely and voluntarily and of my own accord, and no promises have been made to me other than those contained in this Petition, nor have I been threatened in any way by anyone to cause me to plead GUILTY in accordance with this Petition.

13. I understand and acknowledge that this Petition, once filed with the Court, is a public document and available for public viewing.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

APPROVED:

DAVID CAPP  
UNITED STATES ATTORNEY

By: \_\_\_\_\_  
Assistant United States Attorney

# National Science Foundation Office of Inspector General



## Debarment Recommendation Case Number I09070040

March 29, 2013

**This Report of Investigation is provided to you  
FOR OFFICIAL USE ONLY.**

It contains protected personal information, the unauthorized disclosure of which may result in personal criminal liability under the Privacy Act, 5 U.S.C. § 552a. This report may be further disclosed within NSF *only* to individuals who *must* have knowledge of its contents to facilitate NSF's assessment and resolution of this matter. This report may be disclosed outside NSF *only* under the Freedom of Information and Privacy Acts, 5 U.S.C. §§ 552 & 552a. Please take appropriate precautions handling this report of investigation.

## Executive Summary

- Allegation:**           OIG initiated an investigation based on an allegation that [REDACTED] [REDACTED] (Subject) misused NSF grant funds.
- Subject:**               [REDACTED], Principal Investigator (PI) or Co-PI for multiple federal grants, totaling in excess of \$6,800,000, from the National Science Foundation, Department of the Army and the Department of the Navy since 2002.
- OIG Investigation:**     OIG's investigation revealed that the Subject, who served as PI on NSF Awards [REDACTED] and [REDACTED], made several questionable equipment purchases using NSF funds.  OIG determined that the Subject misappropriated in excess of \$220,000 in NSF and cost sharing funds to purchase high-end photography equipment and accessories, surveillance equipment and specialized printers.  Furthermore, forensic analysis of the Subject's NSF-funded computers revealed over 5,000 personal photos that were connected to NSF-funded cameras.
- University Action:**    The [REDACTED] conducted an internal investigation and determined that, while employed by [REDACTED], the Subject improperly charged equipment purchases to two NSF grants, [REDACTED] and [REDACTED], and associated [REDACTED] cost share accounts, and falsely justified the purchases as appropriate grant expenses.  As a result, [REDACTED] terminated the Subject from his tenure position, effective June 2, 2010.
- Prosecution:**         OIG worked with the U.S. Attorney's Office for the Northern District of Indiana in the subsequent prosecution against the Subject, charging him with three counts of 18 U.S.C. § 666(a)(1)(A), Theft from Program Receiving Federal Funds, and four counts of 18 U.S.C. § 1341, Mail Fraud.  The Subject pled guilty to the first count of 18 U.S.C. § 666(a)(1)(A).  The Court sentenced him to probation for a term of two years, home confinement for six months, and ordered him to pay \$32,542 in restitution.
- Government Wide Suspension:**    Due to the Subject's demonstrated intention and capability to continue applying for and receiving federal grant funds despite his termination from [REDACTED], OIG sought government-wide suspension.  The Subject and his company, [REDACTED], were suspended on [REDACTED].
- OIG Recommendation:**   Pursuant to 2 C.F.R. § 180 *et. seq.*, and based upon the facts described herein, OIG recommends that NSF debar the Subject and his company for a period of 10 years.

## I. OIG INVESTIGATION

### A. Factual Background and OIG Assessment

On July 24, 2009, OIG initiated an investigation into allegations regarding potential inappropriate purchases charged to NSF grants and cost sharing accounts by [REDACTED] (Subject), who was an electrical engineering professor at the [REDACTED]. The two closed NSF awards implicated in the allegations were [REDACTED].

[REDACTED]. The Subject served as a Principal Investigator (PI) on both awards. The allegations were based on evidence that the Subject, an avid photographer, used NSF and cost sharing funds to purchase high-end photography equipment and other equipment unrelated to his work under the grants to facilitate his hobby.

[REDACTED] conducted an investigation into the Subject's allegedly inappropriate purchases, hiring outside counsel and forensic auditors/experts to conduct the investigation. The investigators interviewed the Subject and other [REDACTED] employees, imaged the Subject's computers and cameras, and reviewed all equipment purchases on the two NSF grants in question. [REDACTED] investigators concluded that the Subject purchased photography equipment, computers, printers, and accessories with NSF and cost sharing funds, and used the equipment for extensive personal purposes, with negligible, if any, scientific use.

[REDACTED] convened a committee of the Subject's peers to adjudicate the charges brought against him. A hearing was held on April 27, 2010, during which the Subject was given the opportunity to present documentary evidence and witness testimony, as well as cross-examine [REDACTED]'s witnesses. By unanimous vote, the committee affirmed [REDACTED]'s determination that dismissal was warranted and supported by clear and convincing evidence. The Subject was notified of the committee's decision in a letter dated May 4, 2010, and he appealed the decision shortly thereafter. His appeal was reviewed by the faculty Appeal Board, which "affirm[ed] that adequate cause exists for the sanction of dismissal." The Subject was notified of his dismissal in a letter dated June 2, 2010.

OIG obtained, reviewed and analyzed all associated grant records and accounting documentation; performed an inventory of equipment purchased to determine whether and to what extent items purchased by the Subject and charged to the NSF grant funds or university matching funds were missing; and conducted several interviews, including but not limited to, interviews with faculty, students and administrators at [REDACTED]. In addition, OIG reviewed and compared written communications and rebuttals by the Subject, as well as the transcript of his disciplinary hearing at [REDACTED].

OIG's criminal investigation concluded that the Subject misappropriated in excess of \$220,000 for high-end photography equipment, accessories, surveillance equipment, and specialized printers. Of this, approximately \$128,000 was directly charged to two NSF grants for which he served as PI, and the approximately \$92,000 remaining was charged to university cost sharing funds. Moreover, OIG's investigation indicated that the Subject made materially false statements to NSF and [REDACTED] officials regarding his use of grant and/or matching funds.

Given the Subject's federal award history, his employment situation, and the fact that shortly after his termination from [REDACTED] he immediately submitted Small Business Innovation Research (SBIR) proposals to two federal agencies for funding of his own company, OIG determined that there was an immediate need to issue the suspension to prevent additional federal funding from being granted and released to the Subject during the ongoing criminal investigation. NSF suspended the Subject and his company, [REDACTED], government-wide on [REDACTED].

### **B. Prosecution by Department of Justice**

OIG presented its findings to the U.S. Attorney's Office for the Northern District of Indiana, which prosecuted the case. On [REDACTED], the Subject was indicted on three counts of 18 U.S.C. § 666(a)(1)(A), Theft from Program Receiving Federal Funds, and four counts of 18 U.S.C. § 1341, Mail Fraud.

On [REDACTED], the Subject pled guilty to one count of Theft from a Program Receiving Federal Funds, in violation of 18 U.S.C. § 666(a)(1)(A), a felony. On [REDACTED], the Court sentenced him to probation for a term of two years, six months of home confinement, and ordered him to pay \$32,542 in restitution to NSF.

## **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..."<sup>1</sup> The Subject pled guilty to violating 18 U.S.C. § 666(a)(1)(A) for theft from a program receiving federal funds. His conduct demonstrated 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.<sup>2</sup> "If the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met."<sup>3</sup> Since this proposed debarment is based on the Subject's felony conviction, the burden of proof is met.

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<sup>1</sup> 2 C.F.R. § 180.800(a)(3)-(4)

<sup>2</sup> 2 C.F.R. § 180.850(a) & .855

<sup>3</sup> 2 C.F.R. § 180.850(b)

### **C. Relevant Factors**

The debarment regulation lists 19 factors for the debarring official to consider.<sup>4</sup> The following factors are pertinent to this case:

#### **1. Actual or Potential Harm or Impact<sup>5</sup>**

OIG's investigation indicates that the Subject's actions during the periods from July 1, 2002 - June 30, 2005 and from September 15, 2005 - August 31, 2008 resulted in unauthorized charges in excess of \$220,000 to NSF and matching funds, at least \$128,000 of which was directly charged to two NSF grants for which the Subject served as PI. This conduct clearly indicates a significant lack of integrity and the violation of public agreements resulting in the misappropriation of approximately \$220,000 that should have been used to further the goals of the NSF grants at issue.

#### **2. Frequency or Duration of Incidents<sup>6</sup>**

The Subject's wrongdoing extended over a six-year period, between 2002 and 2008. In total, the Subject made or authorized in excess of 175 improper purchases, to include high-end cameras, associated photography accessories and equipment, surveillance cameras, printers, and other inappropriate charges to federal grants and matching funds for which he had fiduciary responsibilities.

#### **3. Pattern of Wrongdoing<sup>7</sup>**

The Subject made inappropriate charges to two NSF grants and cost sharing funds totaling in excess of \$220,000, over a period of approximately six years. There was no indication that the Subject would have stopped his misconduct of his own volition; he was forced to stop only when he was caught by █████ administrators, who suspended him and conducted an internal investigation. The Subject made no attempt to correct the inappropriate charges.

As an example of his pattern of wrongdoing, on March 31, 2005, at his request and with his justification, █████ requested a grantee-approved no cost extension for the MRI grant, for the following reason: "One of the vendors (SHF in Germany) had substantial production difficulties and decided to skip a cycle. We should thus be able to get better equipment, but not until next year. In the meanwhile we are using a loaner to proceed with the research."

In actuality, between March 31, 2005 and June 30, 2006, the Subject made no purchase from SHF in Germany with the MRI grant funds or cost share funds. Rather, he made in excess of 150 improper purchases with the remaining NSF and matching funds to local vendors including Apple and Dodd Camera and Video, establishing a clear pattern of abuse.

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<sup>4</sup> 2 C.F.R. § 180.860

<sup>5</sup> 2 C.F.R. § 180.860(a)

<sup>6</sup> 2 C.F.R. § 180.860(b)

<sup>7</sup> 2 C.F.R. § 180.860(c)

**4. Role in Wrongdoing<sup>8</sup>**

The Subject was solely responsible for misusing NSF funds and using NSF-purchased equipment for personal use.

**5. Repayment<sup>9</sup>**

As part of his plea agreement, the Subject agreed to pay \$32,542 in restitution.

**6. Cooperation of the Subject<sup>10</sup>**

The Subject participated in [REDACTED]'s investigative efforts and in July 2009, immediately prior to his interview with [REDACTED] investigators, the Subject returned approximately \$80,000 of equipment he purchased with NSF and matching funds to [REDACTED]. The Subject, through counsel, also negotiated a plea agreement with the U.S. Attorney's Office for the Northern District of Indiana, resulting in the guilty plea entered on [REDACTED].

**7. Position Held by the Subject<sup>11</sup>**

The Subject served as PI on the two NSF grants at issue, over which he had the primary financial oversight. Thus, the Subject had professional fiduciary responsibilities to serve as a responsible steward of NSF funds, and misused his position to make inappropriate charges to federal grant and matching funds.

**III. RECOMMENDATIONS**

Based on the Subject's criminal conviction, and in order to protect the interests of the public, NSF, and the federal government, we recommend that NSF debar the Subject and his company, [REDACTED], for 10 years.

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<sup>8</sup> 2 C.F.R. § 180.860(f)

<sup>9</sup> 2 C.F.R. § 180.860(h)

<sup>10</sup> 2 C.F.R. § 180.860(i)

<sup>11</sup> 2 C.F.R. § 180.860(k)

**Attachments:**

Tab 1: Indictment, *U.S. v.* [REDACTED]

Tab 2: Plea Agreement, *U.S. v.* [REDACTED]

Tab 3: Judgment, *U.S. v.* [REDACTED]

NATIONAL SCIENCE FOUNDATION  
4201 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22230



OFFICE OF THE  
DEPUTY DIRECTOR



VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED



*Re: Notice of Debarment* – [REDACTED]

Dear [REDACTED]:

On September 17, 2013, the National Science Foundation (“NSF”) issued to your client, [REDACTED], a Notice of Proposed Debarment (“Notice”) in which NSF proposed to debar him and his company, [REDACTED] (the “Company”) from directly or indirectly obtaining the benefits of Federal grants for a period of ten years. The Notice sets forth in detail the circumstances giving rise to NSF’s decision to propose this debarment. Specifically, NSF proposed debarment because [REDACTED] pled guilty to a charge of Theft from a Program Receiving Federal Funds. In the Notice, NSF provided [REDACTED] with an opportunity to respond to the proposed debarment.

On or about October 1, 2013, [REDACTED], through counsel, submitted his response. [REDACTED] asserted that debarment was not appropriate or, in the alternative, that his debarment period should be reduced. In support of his position, [REDACTED] made two primary arguments: (1) he relied on guidance provided by NSF program managers, who informed him that his actions were consistent with NSF grant policy; and (2) NSF should account for the fact that [REDACTED] has been serving a government-wide suspension since [REDACTED] 2011.

**Analysis**

I am not persuaded by the first argument. [REDACTED] pled guilty to a charge of Theft from a Program Receiving Federal Funds. As he outlined in his response, at his plea hearing, he admitted that he purchased camera equipment and accessories worth thousands of dollars using NSF grant funds, even though this equipment was not approved for purchase in connection with the grant. Such conduct is clearly outside the bounds of what is permitted by NSF grant policy. Notwithstanding [REDACTED] failure to provide any details in support of his allegation, I have confirmed that the cognizant program officers never authorized you to use the grant funds in the manner you did.

I, however, am reducing [REDACTED] period of debarment, and that of the Company, in light of the second argument. Pursuant to government-wide debarment and suspension regulations, an

agency's debarring official "must consider the time [an individual] was suspended" if a suspension precedes the debarment. 2 CFR 180.865(b). [REDACTED] and the Company have been suspended since [REDACTED] 2011. Thus, in accordance with the governing regulations, I am crediting [REDACTED] and the Company as if they have been debarred since that date, and reducing their debarment period accordingly.

### Conclusion

For all of the foregoing reasons, [REDACTED] and the Company are debarred until [REDACTED], 2021. During this period of debarment, [REDACTED] and the Company are precluded 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 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, [REDACTED] and the Company are prohibited from receiving Federal contracts or approved subcontracts under the Federal Acquisition Regulations at 48 CFR Subpart 9.4 for the period of this debarment. 2 CFR 180.925. During the debarment period, [REDACTED] 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.

Moreover, during the debarment period, [REDACTED] is prohibited from serving as a reviewer, advisor, or consultant to NSF.

If you have any questions regarding the foregoing, please contact [REDACTED], Deputy General Counsel, at (703) 292-8060.

Sincerely,

[REDACTED]

[REDACTED]  
Senior Advisor