

Jester Gibson & Moore, LLP

Legal Counsel

Brian Moore
Direct: (303) 339-4779
bmoore@jgllp.com

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Via U.S. and electronic mail

Ms. Maureen Weir
Special Agent in Charge
Office of Inspector General
National Science Foundation
e-mail: mweir@nsf.gov

Dear Ms. Weir:

This firm serves as legal counsel to Detlev Helmig, Ph.D. I write concerning the correspondence dated April 13, 2021, sent to your attention by Denitta D. Ward, Assistant Vice Chancellor at the University of Colorado, Boulder (“CU Boulder”). By that correspondence, CU Boulder conveyed to the National Science Foundation (“NSF”) certain conclusions it purports to have reached following an investigation into the activities of Dr. Helmig.

Notably, CU Boulder claimed in its correspondence that it “was not able to interview Dr. Helmig and other employees directly involved in his NSF awards for this report because they are no longer affiliated with the University.” That assertion is simply false. CU Boulder never reached out to Dr. Helmig to request an interview with him or otherwise to provide him with an opportunity to be heard with respect to the matters it investigated. To our knowledge, the same is true of the other former employees of CU Boulder with direct, first-hand knowledge of the subjects of CU Boulder’s April 13 correspondence. In an effort to mitigate this egregious denial of due process, we write in order to fill this gaping hole in CU Boulder’s so-called “investigation.”

Background

In April 2020, CU Boulder summarily terminated Dr. Helmig’s appointment as an associate research professor, without advance notice and without providing Dr. Helmig with any opportunity to respond to the allegations against him. On June 18, 2020, CU Boulder provided the NSF with an internal audit report (“IAR”) concerning the alleged wrongful actions by Dr. Helmig that resulted in his termination. Here again, CU Boulder made no attempt to speak with Dr. Helmig or otherwise obtain his input or give him an opportunity to be heard, before preparing and publishing the IAR.

Subsequent to CU Boulder’s publication of the IAR, local government officials with first-hand knowledge directly contradicted a number of its allegations. In addition, Dr. Helmig prepared and submitted to CU Boulder a detailed rebuttal of the IAR.

CU Boulder subsequently revised the IAR to remove allegations which had been proven false by the contradictory statements of government officials. CU Boulder submitted this revised report to NSF on August 12, 2020. However, so far as we know, CU Boulder never provided the NSF with or informed it of the rebuttal which had been submitted by Dr. Helmig. Accordingly, a copy of this rebuttal is enclosed herewith.

Apparently, after submitting the revised IAR, CU Boulder conducted further investigation into certain of the allegations it contained. CU Boulder reached conclusions based on that investigation and conveyed those conclusions to the NSF via its April 13 letter, still without affording Dr. Helmig any opportunity to be heard, or even informing him of the specific allegations it was investigating. Having been denied an opportunity to address the allegations against him before CU Boulder reached its conclusions, Dr. Helmig takes this opportunity to respond to the two conclusions set forth by CU Boulder in its April 13 letter.

“Apparent Inaccurate Annual and Final Project Reports Submitted by Dr. Helmig to NSF”

CU Boulder first concludes that Dr. Helmig “apparently” submitted inaccurate annual and final effort reports on NSF funded projects. CU Boulder bases this conclusion entirely on differences between the effort reports submitted by Dr. Helmig and CU Boulder’s payroll records.

Such differences are irrelevant to show inaccuracies in the effort reports. Effort reporting through annual and final project reports by Principal Investigators and university payroll records (prepared by CU accounting staff) are separate reporting systems which serve different purposes, and there is no reason to expect them to contain identical information. There are many legitimate reasons for differences between reported project personnel efforts and payroll records. For example, project effort reports include contributions from researchers funded by non-project funds (stipends, fellowships, national research labs, and foreign entities). Obviously, these contributions will not be reflected in university payroll records. Moreover, effort reporting necessarily involves judgment calls as to the allocation of effort by individuals working on multiple projects. CU Boulder has identified no reason to believe that Dr. Helmig failed to make all such effort allocations in good faith, or that differences in his effort reports and CU Boulder’s payroll records have any nefarious explanation.

If the NSF has questions or concerns about any specific effort allocations made by Dr. Helmig in his reporting, he would be happy to address them. Please do not hesitate to reach out to Dr. Helmig, either directly or through me, concerning any such specifics.

“Some Purchased Equipment May Not Have Benefitted a Related Award”

CU Boulder next concludes that some equipment purchased with NSF funds “may” not have benefitted a related award. Here again, CU Boulder fails to identify specific equipment, making it very difficult for Dr. Helmig to respond to the allegation against him, beyond offering some general observations.

CU Boulder states that the equipment in question had a total cost of \$5,809.09 and was purchased on NSF Award ARC 1108391. With a per-item cost of less than \$5,000, under NSF

regulations these items constituted material and supplies, rather than equipment, and had a total cost of a little over one percent of the project award.

This project entailed the year-round continuous monitoring of climate-forcing atmospheric gases at the NSF-sponsored Summit, Greenland, research station. This climate project was initiated by Dr. Helmig in 2008 and has been continuously maintained (with one short interruption). CU personnel are only present on site during specific periods in the summer, such that repairs and maintenance often need to be conducted by the station support staff. Given the extremely remote location, continuous operation can be ensured only by maintaining an inventory of spares, parts, and other materials onsite.

CU Boulder's April 13 correspondence leaves completely unclear whether the unspecified materials in question failed to "benefit the related award," only in the limited sense that they were purchased as spares or inventory for the project, but never actually put into service. Given that they amounted to just over one percent of the project cost, that explanation is entirely plausible.

Again, because CU Boulder did not identify the material in question, Dr. Helmig cannot state anything about it with confidence, other than that he believes that all material purchased with this award served this monitoring program by assuring the support and uninterrupted monitoring as intended and funded by the NSF. If the NSF has questions about the purpose or propriety of any specific purchases, Dr. Helmig would be happy to address them.

Conclusion

None of Dr. Helmig's actions constitute unusual or improper reporting or accounting practices. CU Boulder's correspondence fails to identify any fiscal misconduct or other just grounds to remove him from his appointment or from his role as Principal Investigator on NSF-funded projects. In every instance, Dr. Helmig followed in good faith and to the best of his ability the rules and procedures defined by NSF and the University.

Sincerely,

JESTER GIBSON & MOORE, LLP,
a Colorado limited liability partnership

By:


Brian Moore

cc (e-mail only): Client
Joe Salazar, Esq.
Greg Anderson, greander@nsf.gov
Jennifer Mercer, jmercerc@nsf.gov
Scott Borg, sborg@nsf.gov

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