



AUGUSTA
UNIVERSITY

**Human Resources Division
Office of Internal Audit**

**Investigation Report
Dr. Joe Tsien**

December 2, 2019

Investigation Report

Case Information

Investigators: Debra Arnold, Employee Relations Director
Crystal Corey, Audit Manager

Case Type: Violations of AU Policies (Human Resources, Research, & Sponsored Program Administration)

Complaint

Format: In person, by telephone, and email

Referral

Source: Reported by: AU Legal Office

Allegation Description:

Dr. Tsien is alleged to have undisclosed paid appointments in China that appear to raise a conflict of interest and a conflict of commitment to his employment with Augusta University. During the course of the initial investigation into the conflict of interest and conflict of commitment concerns certain new information became available related to Chinese patents filed while Dr. Tsien was employed with Augusta University. That new information necessarily broadened the scope of the initial investigation and led to new allegations and concerns that the Chinese patents may have resulted from the unlawful disclosure and misappropriation of funded research and intellectual property belonging to Augusta University and NIH.

The original and subsequent allegations investigated included the following:

1. Acceptance of money from Chinese universities or institutions, or from the Chinese government (via 1000 Talents Program), without disclosing payment or compensation received in addition to University employment.
2. Failure to properly disclose multiple potential conflicts of interest, which conflicts were created from dual undisclosed employment in China, dual undisclosed research funding in China, and ownership or control of Chinese businesses and entities engaged in work and activities that are substantially derived from University and NIH funded research.
3. Absence from work and lack of productivity deriving from excessive travel to China without taking annual leave for the parts of trips that were for personal benefit.
4. Theft and or willful disclosure of University proprietary research and intellectual property through the transfer of University research to entities and businesses in China and to China-based patents filed during Tsien's employment with the University.

5. Private Use of State Property (same fact basis as Allegation #4)
6. Willful Theft of University Property (same fact basis as Allegation #4)
7. Dishonesty related to providing false statements on conflict of interest forms for Fiscal Year 2018 filed in 2019.
8. Dishonesty related to intentionally providing false answers and false information during the investigation.

Subject of Allegation:

Name: Dr. Joe Tsien
Location: Medical College of Georgia
Department of Neuroscience and Regenerative Medicine

Summary of Concerns

ALLEGATION #1

There are numerous Chinese websites and news organizations that have publicly reported that Dr. Tsien is employed by several Chinese entities, to include the Chinese Government. Dr. Tsein was provided a letter February 15, 2019 (initiating the investigation) and provided a follow-up letter April 24, 2019 that described numerous reports in Chinese media on Dr. Tsien's employment and positions in China with various entities that appeared to create a conflict of interest and conflict of commitment. The employment in China that has been reported publicly includes the following:

1. Member of the Chinese Government (Peoples Republic of China) "National Thousand Talents Program of the Central Organization Department" (reported by Xian Hi-Tech Industries Development Zone, a Chinese government entity, on 7/10/18; reported by Reuters Xian media, reporter Li Dong, on 5/20/18; reported by People's Network – Shaanxi Channel, on July 18,2018)
2. Dean of the Xishuangbanna Biomedical Research Institute (reported by Reuters Xian media, reporter Li Dong, on 5/20/18)
3. Director of the Shaanxi Huigu Brain Deciphering and Applied Research Center (reported by Reuters Xian media, reporter Li Dong, on 5/20/18)
4. Chairman of the Shaanxi Huigu Tang Yanda Health Technology Development Co. Ltd (reported by Reuters Xian media, reporter Li Dong, on 5/20/18)

CONCLUDING THOUGHTS FOR ALLEGATION #1

Dr. Tsien met with Ms. Arnold and Ms. Corey on February 19, 2019. During the meeting, positions number 1 and 2 were discussed. Dr. Tsien indicated he was not employed as indicated in the articles and he went on to indicate 1 and 2 were both the same events.

Dr. Tsien met with Dr. Hess, Dr. Brann, and Ms. Arnold on April 24, 2019. During the meeting, positions and affiliations number 2 - 4 were discussed. Dr. Tsien was advised to review the list and respond with an explanation of his association to items 3 - 9. Dr. Tsien responded (Attachment A) in writing on May 8, 2019, denying any affiliation.

Dr. Tsien did not disclose any of these relationships and activities for years 2014-2018, in COI Smart, AU's COI reporting system.

Based on the information reviewed from the various websites and the number of articles that reference appointments and positions with these other entities, we believe Dr. Tsien is either employed or affiliated with the organizations identified under Allegation #1 and find his response about these affiliations not credible. We further find that the evidence suggests that it is more likely than not that Dr. Tsien has accepted multiple positions in China during his employment with the University that create conflicts of interest and conflicts of commitment with his full-time employment at the University.

AU Work Rules or Policy Violations:

- #21: Acceptance of additional compensation in any form for work performed in the scope of employment. 1st offense = Suspension to Discharge. 2nd or greater offense = Discharge.
- #26: Dishonesty. 1st offense = Final Warning to Discharge. 2nd or greater offense = Suspension to Discharge.
- #32: Falsification of institutional documents or records including applications for employment. 1st offense = Discharge.
- Individual Conflict of Interest Policy

ALLEGATIONS #2 and #3

During calendar year 2017 and 2018, Dr. Tsien was off-campus 165 and 119 week days, respectively (as reflected on his leave calendars in TimeNet). Provided there were 248 working days for calendar year 2017 and 249 working days for 2018, Dr. Tsien's time off-campus amounted to 67% and 48%, respectively (excludes vacation and holidays).

Dr. Tsien made twelve trips (totaling 228 days) to China from July 1, 2016 to January 31, 2019. "Collaborative BRAIN decoding project with East China Normal University" was noted as the general purpose on all of his travel documents for all of his China trips.

On his fiscal years 2017 and 2018 *Annual Report on Outside Professional Activity and Continuing Education (OA-2)*, only 2 and 79 days were reported as PLA or OC, respectively. When comparing leave documented on the *OA-2* to his recorded leave in TimeNet and travel activities, there was a large discrepancy. Failure to accurately and completely report his OC and PLA time on the *OA-2* could suggest deception/dishonesty, which is a violation of Work Rule 26.

CONCLUDING THOUGHTS FOR ALLEGATIONS #2 AND #3

In calendar year 2009 Dr. Tsien's awarded research totaled \$1,657,981 and has decreased to \$536,350 for 2017. With such extensive research collaboration, one would anticipate an increase in research funding.

This leads us to conclude that his labs and research work here at AU must be affected by his frequent absences from the physical workplace and work commitments are being shifted to other employees to allow such extensive absences from AU work commitments. Based on information gathered and described in Allegations #2 and #3 above, we also conclude that Dr. Tsien used his travel to China to perform work and services for other Chinese entities during his frequent absences and travel to China. It is noted that Dr. Tsien's leave was ultimately approved by MCG management in each instance; however, requests submitted just before the trips and/or after trips were taken did not allow for appropriate review and evaluation.

AU Work Rules or Policy Violations:

- Work Rule #2: Failure to maintain work quality and/or productivity. 1st offense = Warning. 2nd or greater offense = Warning to Suspension. 3rd or greater offense: Warning to Discharge.
- #26: Dishonesty. 1st offense = Final Warning to Discharge. 2nd or greater offense = Suspension to Discharge.
- Individual Conflict of Interest Policy

Attachments:

- Attachment A: Dr. Tsien's May 8, 2019 response to Debra Arnold and Crystal Corey

ALLEGATIONS #4, #5, and #6

The investigation also revealed information that six China-based patents were filed in 2011, 2014, and 2015, during Dr. Tsien's employment at the University, that allegedly used information directly from Dr. Tsien's research or which used information derivative of Dr. Tsien's research. On each patent Dr. Tsien's name is listed as an inventor. Dr. Tsien's name is listed using his Chinese name and reads as "Qian Zhuo," which is the same name Dr. Tsien used as a student in the U.S. and which he provided to the University in his initial employment application. Additional names on the patents include two former employees of the University, Li Meng and Fang Zhao, who were hired and brought to the University by Dr. Tsien and were under his direction and oversight during their employment and during the time of the filing of the patents. These patents include:

1. Chinese Patent Application #201110325533

Video-image-based method and system for detecting non-contact vital sign

ZHAO FANG; QIAN ZHUO; YU YAPING

2. Chinese Patent Application #201410448582

Heart rate variability analysis based lie detection method and lie detection device

ZHAO FANG; SHEN JING; QIAN ZHUO; QIAN YI; LI MENG

3. Chinese Patent Application #201420508288

Mirror capable of measuring physical signs

ZHAO FANG; LI MENG; QIAN YI; QIAN ZHUO

4. Chinese Patent Application #201510724319

Detection method and system based on physiological status stress variation and application

LI MENG; QIAN ZHUO; ZHAO FANG; MI ZHONGLIANG; CAI WEISI

5. Chinese Patent Application #201520856580

Skin light absorption rate dynamic change's detecting system

LI MENG; QIAN ZHUO; ZHAO FANG; MI ZHONGLIANG; CAI WEISI

6. Chinese Patent Application #201520858443

Skin light absorption rate dynamic change's detector

LI MENG; QIAN ZHUO; ZHAO FANG; MI ZHONGLIANG; CAI WEISI

AMENDED CONCLUDING THOUGHTS FOR ALLEGATIONS #4, #5, AND #6

The Chinese patents were reviewed by the University Office of Commercialization and by an outside patent attorney expert (see attached report for conclusion). Both reviews concluded that the Chinese patents were identical to or derivative from Dr. Tsien's research performed at Augusta University.

Dr. Tsien was provided with a letter on July 17, 2019 that listed each Chinese patent, and a description, and requested Dr. Tsien's response to a list of questions regarding his participation in filing the patents and the ownership of those patents. Dr. Tsien responded in writing on July 25, 2019 and denied any knowledge of his name being on the patents or participation in filing the patents. He also claimed that the Chinese patents had been filed in China by the Chinese entities "based on their own work and resources", and denied any ownership interest or financial gain from the patents.

All of the Chinese patent applications reviewed were filed during Dr. Tsien's tenure at AU and would typically have been owned or co-owned by AU given his employment relationship. Based upon a review of the evidence we find Dr. Tsien's response to be not

credible, and believe it is more likely than not that he participated in the filing of the Chinese patents and provided the information necessary for the filing of the patents.

AU Work Rules or Policy Violations:

- #23: Unauthorized access to or disclosure of confidential information, proprietary research, intellectual property, or employee, student, or patient data/records. 1st offense = Warning to Suspension. 2nd or greater offense = Suspension to Discharge.
- #26: Dishonesty. 1st offense = Final Warning to Discharge. 2nd or greater offense = Suspension to Discharge.
- #29: Private use of state property for personal gain or benefit, or for the gain or benefit of others. 1st offense = Suspension to Discharge. 2nd or greater offense = Discharge.
- #30: Theft of and/or willful or intentional disclosure of confidential information, proprietary research, intellectual property, or employee, student, or patient data/records. 1st offense = Discharge.
- #31: Willful theft of university property. 1st offense = Discharge.

ALLEGATIONS #7 and #8

Dr. Tsien failed to complete or submit any Conflict of Interest forms prior to the start of this investigation. At the request of HR and Compliance Dr. Tsien did finally file a Conflict of Interest Form for FY18 in February 2019, with a single disclosure of a very brief consulting engagement (“fifteen minutes”). His COI Form failed to disclose any of his employment activities or positions with Chinese entities or institutes or businesses described above in the Allegations, and failed to disclose any involvement in the patents described above in the Allegations. We find his FY18 Conflict of Interest Form to be false and intentionally dishonest. Dr. Tsien’s written responses in this investigation provided on May 8, 2019 and July 25, 2019, as described above, were not credible and were contradicted by the available evidence. We have concluded that more likely than not Dr. Tsien’s responses in this investigation to the allegations described above are untruthful and intentionally dishonest.

CONCLUDING THOUGHTS FOR ALLEGATIONS #7 AND #8

Intentionally filing a false COI Form is falsification of an institutional document, which is a violation of Work Rule 32. Failure to accurately and completely respond in a university investigation is an example of dishonesty, which is a violation of Work Rule 26.

AU Work Rules or Policy Violations:

- #26: Dishonesty. 1st offense = Final Warning to Discharge. 2nd or greater offense = Suspension to Discharge.
- #32: Falsification of institutional documents. 1st offense = Discharge.

Findings

1. Acceptance of money from Chinese universities or institutions, or from the Chinese government (via 1000 Talents Program), without disclosing payment or compensation received in addition to University employment. **Unsubstantiated (at this time)**
2. Failure to properly disclose multiple potential conflicts of interest, which conflicts were created from dual undisclosed employment in China, dual undisclosed research funding in China, and ownership or control of Chinese businesses and entities engaged in work and activities that are substantially derived from University and NIH funded research. **Substantiated**
3. Absence from work and lack of productivity deriving from excessive travel to China without taking annual leave for the parts of trips that were for personal benefit. **Partially Substantiated**

It is noted Dr. Tsien's frequent absences affected his productivity at AU however, the absences were approved by MCG management.
4. Theft and or willful disclosure of University proprietary research and intellectual property through the transfer of University research to entities and businesses in China and to China-based patents filed during Tsien's employment with the University. **Substantiated**
5. Private Use of State Property (same fact basis as Allegation #4) **Substantiated**
6. Willful Theft of University Property (same fact basis as Allegation #4) **Substantiated**
7. Dishonesty related to providing false statements on conflict of interest forms for Fiscal Year 2018 filed in 2019. **Substantiated**
8. Dishonesty related to intentionally providing false answers and false information during the investigation. **Substantiated**

Recommendation

During the finalization of this investigation, Dr. Tsien submitted his resignation effective November 12, 2019. In the absence of this resignation, a recommendation to the Dean of MCG to move forward with the tenure revocation process leading to termination, would have been advised.

Departmental Leave Requests:

This recommendation is for Dr. Brann and Dr. Hess:

- The process for reviewing and approving travel requests and Outside Activities should be reviewed and strengthened to ensure the approver is apprised of the amount of travel already taken and if an Outside Activity should be disclosed and reported. Management should also be reminded that they may deny travel requests.

End of Report