


NAVAL INSPECTOR GENERAL

REPORT OF INVESTIGATION

Subj: SENIOR OFFICIAL CASE 201203874 ALLEGED MISMANAGEMENT BY
LEONARD A. FERRARI, EXECUTIVE VICE PRESIDENT AND PROVOST,
NAVAL POSTGRADUATE SCHOOL




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******* Preliminary****Statement**

1. The Naval Inspector General (IG) initiated this investigation in November 2011 to address complaints against VADM Daniel T. Oliver (Ret), President, Naval Postgraduate School (NPS) and Dr. Leonard A. Ferrari, Executive Vice President and Provost, NPS. The complaints alleged various acts of waste and mismanagement of NPS. This report addresses conduct of Dr. Ferrari. The conduct of the President Oliver is discussed in a second report. Follow-on reports will address the conduct of others at NPS we do not consider to be senior officials.

2. The complaints alleged NPS leadership was not properly addressing the NPS statutory mission to provide advanced education and research opportunities for Naval officers; that NPS leadership was not adhering to federal hiring practices; that NPS leadership was authorizing excessive salaries for staff and faculty; that President Oliver, Dr. Ferrari and other NPS staff and faculty generally conducted excessive and unnecessary official travel; that NPS staff and faculty used their official positions for personal gain; and that President Oliver and Dr. Ferrari failed to provide adequate leadership.

3. Our initial interviews of NPS staff and faculty developed evidence that tended to support the original allegations and suggested violations of other laws or regulations. Based on the interviews, we increased the scope of the investigation to include an examination of the process of receiving gifts from the Naval Postgraduate School Foundation, which we will refer to as the Foundation.

4. After we briefed the Under Secretary of the Navy on our preliminary findings, he directed us to lead a comprehensive inspection of NPS to include an examination of mission; fiscal

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management; personnel management; academic integrity; resource management; composition and recruiting of the student body; and safety compliance. The inspection effort addressed the areas of mismanagement raised in the original complaints and other areas of concern identified during our investigation. Consequently, in this report we focus on Dr. Ferrari's receipt of gifts from the Foundation and travel.

Summary of Allegations and Conclusions

5. This report addresses the following allegations:

Allegation One: That Dr. Ferrari solicited and accepted gifts from the Foundation on behalf of the U.S. Navy, in violation of 10 United States Code (USC) 2601, General Gift Funds; SECNAVINST 4001.2J, Acceptance of Gifts; OPNAVINST 4001.1F, Acceptance of Gifts; NAVPGSCOLINST 4001.1E, Policies and Procedures for Gift Administration, Gift Acceptance and Event Sponsorship for the Naval Postgraduate School; and NAVPGSCOLINST 4001.2B, Policy on President's Gift Fund.

Allegation Two: That Dr. Ferrari engaged in excessive and wasteful travel to overseas locations in violation of the Joint Travel Regulations (JTR), Volume 2, Part A, Section C2000, Obligation to Exercise Prudence in Travel.

6. We substantiate allegation one. We determined that the Foundation reimbursed Dr. Ferrari, by check, and made payments to vendors on his behalf.

7. We did not substantiate allegation two, finding instead that each trip Dr. Ferrari took had a reasonable connection to the performance of his official duties.

Background

8. Authority for NPS is set out in 10 USC 7041, United States Postgraduate School, Function. Section 7041 states:

The primary function [of NPS] is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in –

- (1) their practical and theoretical duties;
- (2) the science, physics, and systems engineering of current and future naval warfare doctrine, operations, and systems; and

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(3) the integration of naval operations and systems into joint, combined, and multinational operations.

9. SECNAVINST 1524.2B, Policies Concerning the Naval Postgraduate School, provides further guidance on the mission and functions of NPS. It states, "The NPS exists for the sole purpose of increasing the combat effectiveness of the Navy and Marine Corps."

10. The NPS mission statement is:

NPS provides high-quality, relevant and unique advanced education and research programs that increase the combat effectiveness of the Naval Services, other Armed Forces of the U.S. and our partners, to enhance our national security.

11. Dr. Ferrari is the NPS Provost. The Secretary of the Navy appointed him to the position in July 2006. 10 USC 7043, United States Postgraduate School, Provost and Academic Dean, authorizes the Provost position. Prior to becoming the Provost, Dr. Ferrari was the Dean of Research at NPS. He has been at NPS since 2003.

12. The Foundation is a nonprofit organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Its primary mission is to support the students, faculty and staff of the NPS. The Foundation is a non-federal entity, separate and distinct from NPS.

Allegation One: Violation of Gift Rules

That Dr. Ferrari solicited and accepted gifts from the Foundation on behalf of the U.S. Navy, in violation of 10 United States Code (USC) 2601, General Gift Funds; SECNAVINST 4001.2J, Acceptance of Gifts; OPNAVINST 4001.1F, Acceptance of Gifts; NAVPGSCOLINST 4001.1E, Policies and Procedures for Gift Administration, Gift Acceptance and Event Sponsorship for the Naval Postgraduate School; and NAVPGSCOLINST 4001.2B, Policy on President's Gift Fund.

Applicable Standards

13. 10 USC 2601, General Gift Funds, grants the Secretary of the Navy authority to "accept, hold, administer, and spend any gift. . . ." Of particular relevance to this inquiry are the statutory requirements to deposit monetary gifts in the

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U.S. Treasury, to avoid accepting gifts that would reflect unfavorably on the Department of the Navy, and to avoid accepting gifts that would compromise the integrity or appearance of integrity of any program of the Department of the Navy.

14. SECNAVINST 4001.2J sets forth the Secretary of the Navy's policy and procedures for acceptance of gifts, including money and personal and real property. The instruction defines money as cash, checks, or other forms of negotiable instruments. Personal property includes all property other than real property (land and buildings on that land). This instruction authorizes CNO, VCNO, and Director of Navy Staff and other very senior officials to accept gifts subject to certain limitations. It permits the CNO to delegate certain gift acceptance authority to subordinates in his/her chain-of-command and establishes rules that apply to any Navy official in the gift acceptance process.¹ The instruction expressly prohibits solicitation. It states that gifts from Foundations "should not be used as conduits to make indirect gifts that DON gift acceptance policy would not permit if offered directly to the Department of the Navy." The instruction requires donors to make checks payable to the Department of the Navy and reiterates the statutory requirement that all gifts of money be deposited into the Treasury. The instruction mandates that prospective donors be "advised to submit gift offers in writing explicitly specifying any conditions associated with gift acceptance." Finally, the Instruction provides that with limited exceptions for wounded or injured in the line or duty, services may not be accepted as gifts.²

15. OPNAVINST 4001.1F promulgates CNO's policies in connection with accepting and processing of gifts flowing from 10 USC 2601 and SECNAVINST 4001.2J. By this instruction the President, NPS, is granted express authority to accept gifts to the Navy of \$12,000 or less. The instruction provides various reporting requirements.

16. Two local instructions, NAVPGSCOLINST 4001.1E and NAVPGSCOLINST 4001.2B, set out further responsibilities and requirements regarding gifts to NPS.

17. Of note, NAVPGSCOLINST 4001.1E prohibits NPS employees from directly or indirectly soliciting gifts for themselves or NPS

¹ The instruction does not provide any special authority to the NPS President or NPS.

² For purposes of this report, the gift of services exemptions do not apply.

and from accepting reimbursements from a non-federal entity. The instruction also provides:

NPS employees may not accept reimbursement from a non-federal entity for expenses that support the school or its mission.³ Should a non-federal entity offer to support a school related function or event, then that offer must be processed in accordance with this instruction.

Findings of Fact

18. From 2007 to the present, the Foundation made gifts of cash and property with an aggregate value in excess of \$900,000 to the Navy for the benefit of NPS in a manner consistent with gift laws and applicable Navy instructions. During the same period, President Oliver, Dr. Ferrari, and various NPS staff and faculty members accepted gifts directly from the Foundation in a manner inconsistent with applicable gift statutes and Navy instructions.⁴

19. We reviewed yearly gifts of money and property from the Foundation to NPS that were properly accepted by the Navy. For each gift, FOIA b6 & b7c FOIA b6 & b7c, the Foundation FOIA b6 & b7c FOIA b6 & b7c offered the gifts to NPS in a letter to President Oliver that outlined the Foundation's intent for the gift. In accordance with SECNAVINST 4001.2J, OPNAVIST 4001.1F, and NAVPGSCOLINST 4001.1E, the CNO or other senior U.S. Navy officer or President Oliver accepted the gifts on behalf of the Navy for the benefit of NPS.

20. For each of the properly accepted monetary gifts, the Foundation's check was forwarded to the Assistant for Administration, Under Secretary of the Navy (AAUSN). AAUSN, in turn, deposited the funds and distributed them back to NPS. The funds were placed in the President's Gift Fund account.

21. The NPS Comptroller maintains the President's Gift Fund account. The local NPS Instruction provides that funds in the President's Gift Fund, are "available for expenditures for any purpose within the mission of the NPS and at the discretion of

³ The Foundation is a non-federal entity.

⁴ The IG will address solicitation and acceptance of gifts by other NPS employees from the NPS Foundation in subsequent reports of investigation as well as the use of official position for personal gain.

the President.”⁵ Within the President’s Gift Fund, accounts were set up for various positions and purposes. One account was for Dr. Ferrari’s use.

Gifts Authorized By Statute and Instructions

22. In 2009, 2010, and 2011 the gifts for the Provost’s office were less than 2007 and 2008. As addressed below, beginning in 2009 the Foundation made payments to support Dr. Ferrari’s office out of an account it kept at the Foundation and did not give the money to the Navy.

23. The dates and amounts of the Foundation’s monetary gifts to the President’s Gift Fund for the Provost’s office for 2007 to 2011 are set forth in Appendix A of this report.

Gifts Not In Accordance With Statute and Instructions

24. Foundation records and records supplied by Dr. Ferrari’s office reflect that some time prior to June 4, 2009, the Foundation established a Provost’s account, which the Foundation held and never formally given to NPS. The original balance for the account was \$5,000. The Foundation deposited an additional \$10,000 into the account; \$5,000 in 2010 and \$5,000 in 2011.

25. A review of Foundation records reflects that in 2009, the Foundation made five payments from the Provost account for \$3,887.37. These payments were:

- \$988.33 payment to MWR on June 4 for event held on April 9 attended by 70 guests.
- \$536.17 reimbursement to Dr. Ferrari on June 22 for a workshop planning luncheon on June 3 in Geneva, Switzerland.⁶ The meal was attended by Dr. Ferrari and 6 others.
- \$1,943.14 reimbursement to Dr. Ferrari on September 31 for a round trip airline ticket from San Francisco to

⁵ It should be noted that this authority incorrectly implies that the funds may be used for anything the President deems appropriate. The use is limited by general fiscal law principles regarding the use of gift funds.

⁶ An IG investigator interviewed Dr. Ferrari on June 22, 2009, as a witness in an investigation that included an allegation that the subject improperly received gifts on behalf of the U.S. Navy from the Foundation. He did not disclose that the NPS Foundation had set up an account for him separate from the money designated for the Office of the Provost in the President’s Gift Fund.

Frankfort, Germany, for travel beginning on October 5, 2009.⁷

- \$350.73 reimbursement to b6 b7c, Dr. Ferrari's executive assistant, on September 13 for NPS coins, ties, and lapel pins from the Peacock Shop.⁸
- \$69.00 reimbursement to Dr. Ferrari on September 25 for software.

26. In 2010, the Foundation made 10 payments from the Provost account for \$3,331.86. These payments were:

- \$312.00 payment for wine for an NPS reception held on February 12.
- \$559.32 reimbursement to Dr. Ferrari on March 11 for three lunches and three dinners. Dr. Ferrari paid for himself and other diners for each meal.
- \$91.15 reimbursement to Dr. Ferrari on April 23 for a business dinner in Geneva, Switzerland, on September 17, 2009, and a taxi fare in Geneva on September 24, 2009.
- \$222.50 reimbursement to Dr. Ferrari on May 27 for three business lunches, a book, and a registration fee for a luncheon. Dr. Ferrari and other diners attended each meal.
- \$93.69 reimbursement to Dr. Ferrari on June 2 for food for faculty events.
- \$129.90 reimbursement to b6 b7c on June 16 for 10 box lunches served at a School Dean's budget meeting held on June 19.⁹
- \$664.49 reimbursement to Dr. Ferrari on June 16 for three dinners in Geneva in May 2010 and one dinner in London, England, in June 2010. The meals included Dr. Ferrari and other diners.
- \$97.43 payment to the Peacock Shop on June 29 for NPS coins.
- \$844.79 reimbursement to Dr. Ferrari on July 15 for four dinners and one lunch for Dr. Ferrari and other diners.
- \$32.06 reimbursement to Dr. Ferrari on August 3 for a dinner for Dr. Ferrari and one other diner.

⁷ Special requirements for gifts of travel are set out in 31 USC 1353. The requirements were not satisfied in this instance.

⁸ b6 b7c testified she purchased the items for Dr. Ferrari.

⁹ b6 b7c testified she purchased the lunches for Dr. Ferrari.

27. In 2011, the Foundation made 10 payments from the Provost account for \$3,551.75. These payments were:

- \$324.75 reimbursement to b6 b7c on February 23 for sandwiches from Whole Foods for a reception.¹⁰
- \$108.25 payment to the Peacock Shop on February 25 for lapel pins.
- \$137.18 reimbursement to Dr. Ferrari on March 8 for office supplies.
- \$356.13 payment to the Peacock Shop on March 24 for coins, tie pins, and coffee table books.
- \$50.00 payment to Navy Gateways (NPS Billeting) on April 5 for Dr. Ferrari's guest.
- \$50.00 payment to Navy Gateways (NPS Billeting) on April 11 for Dr. Ferrari's guest.
- \$350.00 payment to Council of Graduate Schools on June 10 for Council of Graduate Schools Summer Workshop Sponsorship.
- \$1,972.00 reimbursement to Dr. Ferrari on July 18 for airline tickets for official travel.¹¹
- \$96.53 payment to the Peacock Shop on October 12 for NPS coins.
- \$106.91 reimbursement to Dr. Ferrari on November 11 for one dinner in Geneva on October 18. Dr. Ferrari paid for himself and other diners.

28. In 2012, the Foundation made a single payment from the Provost account of \$424.71 on January 12. This payment was for a case of wine.

29. The gifts to Dr. Ferrari include gifts of money (reimbursements), personal property (wine, NPS coins, tie pins, coffee table books), and services associated with the event catered by MWR.

30. The IG also reviewed Dr. Ferrari's account in the NPS President's Gift Fund that the NPS b6 b7c, b6 b7c, administered. Payments from the President's Gift Funds were for items similar to what the Foundation reimbursed Dr. Ferrari.

¹⁰ b6 b7c testified she purchased the sandwiches for Dr. Ferrari.

¹¹ Special requirements for gifts of travel are set out in 31 USC 1353. The requirements were not satisfied in this instance.

b6 b7c testified that he approved claims for reimbursements from the President's Gift Fund for:

Books, events, luncheons, interview processes for potential faculty. It pretty much, as long as they – as I call – keep their purchases within reason, then the answer is they pretty much use for as they see fit.¹²

31. b6 b7c stated that he does not require justification for requests for reimbursements from the President's Gift Fund. He stated: "So they [requests for reimbursement] are not outlandish, so therefore I approve them." He added:

I have searched through proper uses that I can find for gift funds. And all the regulations point to how you use gift funds, not how you spend gift funds.

32. In Fiscal Year 2011, b6 b7c approved 24 claims for reimbursement from Dr. Ferrari's gift fund account.¹³ These expenditures were for:

- 18 meals
- 3 payments to MWR (2 faculty recognition events and 1 lunch for meeting attendees)
- 1 reception for seminar attendees
- 1 cake to recognize a senior staff member's 30 years of Federal service
- 1 purchase of 85 NPS coins
- 1 conference fee and 1 parking fee for a NPS staff member
- 1 conference fee for Dr. Ferrari
- 1 Starbucks coffee for a faculty meeting
- 1 gift card to a local restaurant

33. We interviewed Dr. Ferrari regarding payments from the Foundation on June 19, and June 21, 2012. On June 21, 2012, Dr. Ferrari provided a written statement, with attachments, dated June 20, 2012, which he incorporated into his sworn testimony.

¹² Funds in the President's Gift Fund are deposited in the U.S. Treasury and constitute trust funds, which although not subject to all of the restrictions applicable to direct appropriations, may only be used in furtherance of authorized agency purposes and incident to the terms of the trust.

¹³ The 2011 claims are representative of the 2009 and 2010 claims.

34. In his written statement, Dr. Ferrari asserted that he had a meeting with b6 b7c, then-NPS ^{FOIA b6 & b7c}, on November 13, 2008, and that b6 b7c recommended that Dr. Ferrari have the Foundation retain a portion of the funds that the Foundation would otherwise include for Dr. Ferrari's use in the Foundation's 2009 gift to NPS.¹⁴ Dr. Ferrari wrote:

He [b6 b7c] stated his concern that the President's [Gift] funds were in USN accounts and therefore had to be governed by USN regulations. He suggested that some portion of the President's Gift Fund could remain in the NPSF [NPS Foundation] accounts under the approval of the NPSF ^{FOIA b6 & b7c} ^{FOIA b6 & b7c}.

35. Dr. Ferrari also wrote that he "believed" he mentioned to ^{FOIA b6 & b7c}, b6 b7c November 13 conversation "with the result that 1/2 of the proposed 'Provost 2009 allocation' was given a delayed transfer by the NPSF to NPS in January 2009." Dr. Ferrari wrote, "It was decided that we needed a meeting between ^{FOIA b6 & b7c} b6 b7c and myself before NPSF 'Provost funds' would be used. I delayed use of the NPSF funds until that could occur."

36. Dr. Ferrari wrote that on April 6, 2009, he met again with b6 b7c

to re-discuss the question of the best way to use the support funds available from NPSF. He reiterated that the best approach would be to not have the funds transferred to USN accounts and to have the NPSF directly sponsor events and activities.¹⁵

37. In addition to his written statement, Dr. Ferrari testified that b6 b7c suggested that the Foundation should "host" or "organize" events. In that case, Dr. Ferrari stated "it's their funds. It's their event." Regarding the April 6 meeting, Dr. Ferrari testified,

He [b6 b7c] said the best approach is to have them do what they often do, right, which is to pay for things themselves. . . . b6 b7c suggestion was that we

¹⁴ Dr. Ferrari provided a printout from his Outlook calendar noting that on November 10, 2008, a meeting was scheduled between him and b6 b7c for November 13.

¹⁵ Dr. Ferrari provided a printout from his Outlook calendar noting that on April 6, 2009, a meeting was scheduled between him and b6 b7c.

leave some portion of the funds in the Foundation, and that I work directly with him, with b6 b7c, on these issues, on the activities that would be covered by those funds.

38. Dr. Ferrari wrote in his statement that on April 8, 2009, he met with b6 b7c and FOIA b6 & b7c "to clarify and make sure they were in agreement."¹⁶ He stated that based on the meeting, he made the decision to leave the funds with the Foundation. Dr. Ferrari also wrote, "I continued to provide [my b6 b7c] b6 b7c] with all receipts for NPS and NPSF events and activities."

39. We confirmed that Dr. Ferrari did, in fact, provide receipts to b6 b7c. Additionally, for each request for reimbursement from the Foundation Dr. Ferrari signed a Standard Form (SF) 1164, Claim For Reimbursement For Expenditures on Official Business. b6 b7c also signed the SF 1164 before submitting it to the Foundation. Requests for reimbursement from the President's Gift Fund were similarly made by signing a SF 1164 but were submitted to the NPS Comptroller's office.

40. Foundation records establish that the first payment from the Provost's Office account was a check, dated June 4, 2009, to MWR for \$988.33. The check was for an event catered by MWR on April 9, 2009. Attached to the Foundation record was a note signed by FOIA b6 & b7c to the NPSF bookkeeper in which FOIA b6 & b7c wrote:

We budgeted \$10,000 for the Provost in 2009. We have given him \$5,000 so far in 2009 and he has asked that we keep the other \$5,000 in the Foundation's account and he will submit bill to be paid from this \$5,000. Attached is first bill \$988.33 for us to pay.

41. On June 22, 2009, an IG investigator interviewed Dr. Ferrari as part of the investigation of misconduct by an NPS employee [prior subject] alleged to have improperly accepted gifts on behalf of the U.S. Navy. Issues related to the Foundation were not a significant part of the interview, but Dr. Ferrari was asked about his understanding of what the Foundation provided to prior subject's organization, whether he was aware that the Foundation had reimbursed members of the

¹⁶ Dr. Ferrari provided a printout from his Outlook calendar noting that on April 8, 2009, a meeting was scheduled between him and FOIA b6 & b7c with a note that b6 b7c was invited to the meeting.

prior subject's staff for purchases of beverages at receptions, and what he understood the proper procedures to be followed when the Foundation makes a gift.

42. In his testimony in 2009, Dr. Ferrari stated, that "sometimes the foundation can spend their money as a private organization in support of an activity. I assume that all those things are cleared through the comptroller." He also stated:

Well I know that there are gifts to many administrators to help them with expenditures that support faculty activities. . . . But those generally I think go through the president's office and then down through the comptroller.¹⁷

43. Dr. Ferrari did not disclose the Provost's account at the Foundation to the IG investigator. Further, he did not disclose that he had three meetings regarding the Foundation retaining a portion of its gift intended for him (November 13, April 6, and April 8), that the Foundation had recently issued a check to him (June 4), or that just prior to the interview, on June 18, he signed an SF 1164 for reimbursement from the Foundation.

44. FOIA b6 & b7c testified that he attended a meeting with Dr. Ferrari and b6 b7c in Dr. Ferrari's office at which b6 b7c suggested that the Foundation keep one-half of the money it intended to allocate for Dr. Ferrari in its gift to the Navy in an account at the Foundation. FOIA b6 & b7c stated, "it was the lawyer's initiative." Regarding retaining money in an account at the Foundation, FOIA b6 & b7c testified:

[b6 b7c is] the one that's suggesting that some of the money, half of the money be kept in the Foundation account, and [Dr. Ferrari would] just submit receipts to the Foundation.

45. FOIA b6 & b7c testified that he was uncertain why b6 b7c wanted the Foundation to retain a portion of the allocation. He said b6 b7c "said it was more efficient or something like that."

FOIA b6 & b7c added,

I was sort of surprised when a lawyer comes up with initiative saying you, the NPS Foundation, keep some of that money and then the provost gives us receipts for a variety of things, and then we give him a check.

¹⁷ Dr. Ferrari was discussing the President's Gift Fund.

46. FOIA b6 & b7c was unable to recall any other conversations he had with b6 b7c. He told us that the reason he recalled the conversation about leaving money for Dr. Ferrari's use at the Foundation was: "It was strange -- that the lawyers come up with something is an exception."

47. b6 b7c denied knowing or suspecting that the Foundation had any accounts for NPS personnel. Further, he denied ever advising Dr. Ferrari to have the Foundation hold a portion of its yearly gift for him at the Foundation. He stated, "Didn't happen."

48. b6 b7c said he did recall providing advice in one instance in which the Foundation offered to make a gift of cash to NPS that included a stipulation that a portion of the gift be used to pay for wine from specific suppliers. He testified:

I said, if you are going to have some kind of a party, then don't give the money to the Government . . . the Foundation [should] contract or contact, whoever has got the wine and bring it in and serve it, and everything goes through the Foundation and it is available at the -- at this party, but it is not Government and no bills come to the Government, and then the government sends the bill to the Foundation.

49. b6 b7c explained that when the Navy or NPS accepted a gift of cash from the Foundation, the cash became appropriated funds. He stated that he provided advice that "the Government does not use Government money to buy alcohol." He added, however, that the Foundation could provide gifts of wine.

Education Symposium Account

50. In 2008, a private corporation donated \$250,000 worth of network equipment and \$25,000 to the NSP Foundation for NPS. The Foundation, in turn, gave the equipment to the Navy on July 10, 2008. The Foundation, however, retained the cash gift at the Foundation in an account we refer to as the Education Symposium account.

51. In its gift to the Foundation, the private corporation stipulated that the \$25,000 cash be used to "to sponsor an education symposium for the students of the Naval Postgraduate School." We found that the cash was not used for its intended purpose. Rather, \$19,680, was spent to support a meeting of the Transformative Education Forum (TEF), an initiative of the NPS and the Graduate Institute of Geneva. The TEF meeting for which

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the Foundation used the restricted gift occurred from October 31 to November 2, 2011 in Monterey, CA, near NPS.¹⁸

52. The co-chairs of TEF are Dr. Ferrari and b6 b7c, b6 b7c, b6 b7c, German- Jordanian University. One of the co-founders of TEF is b6 b7c, b6 b7c of the United Nations Association of the USA, but more notably Dr. Ferrari's b6 b7c.

53. Although 88 attendees participated in the meeting, including NPS faculty and staff, no NPS students attended the meeting. Foundation records establish that the Foundation provided payments and honoraria to 15 attendees at the TEF meeting. The amounts of these payments ranged from \$280 to \$2,000 and the Foundation used funds from the Education Symposium account to make these payments.

54. Dr. Ferrari and other witnesses testified that appropriated funds from three separate sources were budgeted to pay for the TEF meeting. One source, a Congressional earmark, was terminated and could not be used. Another source, \$15,000 from the Office of the Secretary of Defense (OSD), expired at the end of Fiscal Year 2011 (September 30, 2011), prior to finalizing a contract to support the TEF meeting. Thereafter, the TEF meeting organizers sought alternate funding for the meeting.

55. A NPS employee from Information Technology and Communications Services (ITACS), who assisted with organizing the TEF meeting testified that he contacted the Foundation and asked about using the funds in the Education Symposium account. He stated that b6 b7c, b6 b7c, ITACS, told him to contact the Foundation about the money. The employee said that Foundation personnel told him that the account was set aside for use by b6 b7c.

56. b6 b7c testified that he spoke with FOIA b6 & b7c about providing support for the TEF meeting and that FOIA b6 & b7c made the \$25,000 available from the Education Symposium account. b6 b7c provided notes from a meeting he had with FOIA b6 & b7c on August 12, 2011, that stated:

The purpose of the funding was for student training, conference attendance, enrichment of education. It can be used for students or practitioners or educators. Output/product of must benefit students.

¹⁸ Information regarding TEF can be viewed at:
<http://tef.nps.edu/web/guest/home>

57. b6 b7c added that he informed b6 b7c that funds to support the TEF meeting were coming from the Education Symposium account at the Foundation. He stated,

She knew very little. I mean I'm the one that updated her on this, and I would say that I told her that we were going to use some of the Foundation funds that were set up by [the private corporation] as educational support for NPS. We were going to use some of those funds.

58. b6 b7c testified that other than the 15 honoraria paid with the Education Symposium account, no other honoraria were paid to the TEF attendees. He stated:

I knew that we couldn't do -- there were certain restrictions we had on money that Comptroller said to us and Legal said to us you can't use this money for that [honoraria]. You can use this money for the following, and so, yeah. We know no other money was used for honorariums.

59. b6 b7c stated that to his knowledge, b6 7c (NPS FOIA b6 & b7c), b6 b7c (NSP b6 b7c), and b6 b7c (NPS b6 b7c) were not told that meeting participants were paid from the Education Symposium account. He stated:

I do not recall a discussion with the lawyers. I don't have a record of that. I don't know if someone outside of my purview had a discussion. I was not privy to any discussion.

60. Dr. Ferrari testified that b6 b7c suggested using funds from the Education Symposium account to make up for the earmark and the OSD funding. Dr. Ferrari stated:

b6 b7c basically explained to me that there was an account with funds in it for use for education in the Foundation put there by a corporate entity.

61. Dr. Ferrari testified that he did not ask b6 b7c whether he discussed using the Education Symposium account funds for the TEF meeting with any attorney. Dr. Ferrari stated, "I did not. I sort of, my opinion was that he was working with the Foundation on this." Dr Ferrari also stated:

I was told that the Foundation could support things that the U.S. Navy could not. That's up here at

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50,000 feet and how that gets interpreted legally in each case seems to be changing.

Analysis

62. We concluded Dr. Ferrari solicited and accepted gifts of money, personal property, and services from the Foundation on behalf of the U.S. Navy in violation of 10 USC 2601, SECNAVINST 4001.2J, OPNAVINST 4001.1F, NAVPGSCOLINST 4001.1E, and NAVPGSCOLINST 4001.2B.¹⁹

63. Dr. Ferrari's submissions of SF 1164s to the Foundation for reimbursement were solicitations. When he received reimbursements by the Foundation for expenses he accepted gifts on behalf to the U.S. Navy. Additionally, payment made on Dr. Ferrari's behalf were also gifts that he accepted for the Navy. Dr. Ferrari failed to accept the gifts in accordance with the controlling authorities.

64. We attributed b6 b7c solicitations and acceptance of gifts to Dr. Ferrari. b6 b7c, Dr. Ferrari's b6 b7c, solicited the Foundation and accepted reimbursements from the Foundation for expenses incurred on Dr. Ferrari's behalf.

65. Dr. Ferrari also permitted NPS employees to solicit and accept \$19,680 from the Foundation for payments to TEF attendees. Although there is no evidence that Dr. Ferrari personally solicited the Foundation for money from the Education Symposium account, the money was solicited, with his knowledge, on his behalf to support the TEF meeting. We therefore attributed the solicitation and acceptance to Dr. Ferrari. Dr. Ferrari was aware that b6 b7c had contacted FOIA b6 & b7c for funds to support the TEF meeting. Additionally, he knew and allowed the Foundation to make payments on behalf of NPS without following applicable gift solicitation and acceptance rules.

66. In addition to violating the applicable instructions regarding gifts to the Navy, we are concerned that Dr. Ferrari approved the use of money for "honoraria" because there is evidence that NPS understood such honoraria are not authorized. Dr. Ferrari testified that he did not direct any coordination concerning the use of such funds with NPS counsel. Under the

¹⁹ By separate correspondence we are recommending that FM&C examine all the gifts Dr. Ferrari accepted in violation of the gift process to determine whether the gifts can be retroactively accepted by the U.S. Navy.

circumstances, we did conclude that Dr. Ferrari exercised poor judgment.

67. We noted that Dr. Ferrari received minimal personal gain from having the funds retained at the Foundation. It appears that b6 b7c would have reimbursed Dr. Ferrari for all the expenses for which the Foundation reimbursed him and b6 b7c or the NPS would have made payments on Dr. Ferrari's behalf. We also noted that Dr. Ferrari had receipts for all his requests for payment by the Foundation and used SF 1164s for his requests for reimbursement by the Foundation. These factors while mitigating, do not excuse Dr. Ferrari's failure to comply with gift rules.

68. Although we found Dr. Ferrari to be cooperative and candid with our investigators regarding his meetings with legal counsel and Foundation staff, we do not believe that the FOIA b6 & b7c, b6 b7c, advised him to have the Foundation retain gift money for his use. Instead, we find it more likely that Dr. Ferrari misinterpreted b6 b7c advice regarding the Foundation making payments for certain expenses rather than using the President's gift fund.

69. While Dr. Ferrari made clear during the current investigation that he relied upon the advice of counsel in deciding to use funds provided directly by the Foundation, we note he did not disclose this information when the IG interviewed in 2009 as part of the prior subject's investigation. Specifically, at that time, Dr. Ferrari stated his understanding that all gift funds came through the NPS comptroller. He never mentioned advice provided by the b6 b7c to keep funds at the Foundation or the number of meetings (three) related to these funds. Further, Dr. Ferrari received the first check from the Foundation only weeks before the 2009 interview and he signed an SF 1164 that was submitted to the Foundation for reimbursement for expenses only four days before the 2009 interview. Nonetheless, he did not disclose the Provost's account to the IG investigator. While these facts are troubling, we also considered the records Dr. Ferrari provided regarding scheduled meetings with b6 b7c, Dr. Ferrari's assertion that he met with b6 b7c, FOIA b6 & b7c testimony that he was present at a meeting, and b6 b7c testimony that he did provide some advice regarding NPS making payments for wine.

70. We note that even if b6 b7c had advised Dr. Ferrari to have the Foundation establish the Provost's account as Dr. Ferrari testified, we would have, nonetheless, concluded

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that Dr. Ferrari improperly solicited and accepted gifts from the Foundation. Further, had b6 b7c advised Dr. Ferrari to have funds retained at the Foundation for his use, Dr. Ferrari should have exercised his independent judgment and at a minimum sought additional counsel or requested b6 b7c to reduce the advice to writing.²⁰ Because FOIA b6 & b7c testified that he was "surprised" by the advice, we believe that Dr. Ferrari too, should have been surprised by the advice and taken steps to confirm that it was accurate. Accordingly, we determined that in addition to improperly soliciting and accepting gifts, Dr. Ferrari exhibited poor judgment.

Conclusions

71. The allegation is substantiated.

Allegation Two: Excessive and Wasteful Overseas Travel

That Dr. Ferrari engaged in excessive and wasteful travel to overseas locations in violation of the Joint Travel Regulations (JTR), Volume 2, Part A, Section C2000, Obligation to Exercise Prudence in Travel.

Applicable Standard

72. The JTR, Volume 2, apply to Department of Defense civilian employees. Part A, Section C2000, Obligation to Exercise Prudence in Travel, requires that a traveler "must exercise the same care and regard" in official government travel "as would a prudent person traveling at personal expense." Section C2000, therefore, prohibits excessive and wasteful official government travel.

Findings Of Fact

73. Complaints alleged that Dr. Ferrari engaged in excessive and wasteful travel to overseas locations. We reviewed Dr. Ferrari's travel vouchers for overseas travel for all of 2010 through October 2011. Dr. Ferrari provided contemporaneously prepared itineraries and agendas. We also interviewed Dr. Ferrari about his travel.

²⁰ Dr. Ferrari's failure to cease soliciting and accepting funds from the NPS Foundation after an IG investigator interviewed him on June 22, 2009, as part of the prior subject's investigation is also troubling. He should have realized then that it was improper to accept funds from the NPS Foundation as reimbursement for expenses.

74. For the period of review, Dr. Ferrari took six overseas trips and was in a TDY status for 66 days.²¹ He traveled to: (1) Singapore; (2) Amman, Jordan; (3) Geneva, Switzerland, London, England, and Stuttgart, Germany; (4) Geneva; (5) London and Amman; and (6) London, Amman, and Geneva.

75. Dr. Ferrari testified or provided documents about the purpose for each of his trips. The evidence established that he often combined multiple destinations and purposes for traveling in a single trip.

76. During his trip to Singapore, from January 29 to February 6, 2010, Dr. Ferrari was in travel status on January 29 and 30 and February 6. From January 31 to February 5, Dr. Ferrari met with the Provost the National University of Singapore, a school that offers joint degree programs with NPS, visited another defense education institute, met with personnel from a Singaporean defense science and technology agency and national research foundation, and attended an air show where he had scheduled meetings with Singaporean officials.

77. During his trip to Amman from February 11 to 18, 2010, Dr. Ferrari was in travel status on February 11, 12, and 18. While in Amman, Dr. Ferrari met with local university leaders and a Jordanian government minister and attended planning meetings for a future conference.

78. During his trip to Geneva, London, and Stuttgart, from May 25 to June 10, 2010, Dr. Ferrari was in travel status on May 25 and 26 and June 1, 6, 8, and 10. While in Geneva, from May 26 to June 1, Dr. Ferrari attended a 3-day conference and met with a former Swiss Ambassador to the UN and with the U.S. Ambassador to Switzerland at separate meetings. While in London, from June 1 to June 6, Dr. Ferrari met with an official from the British equivalent to NPS and awaited transportation to his next location. On June 6, Dr. Ferrari traveled to Stuttgart. At Stuttgart, from June 7 to 9, Dr. Ferrari met with officials from EUCOM and AFRICOM.

79. During his trip to Geneva, from November 13 to 26, 2010, Dr. Ferrari was in travel status on November 13, 14, and 26. Dr. Ferrari attended a conference from November 15 to 17. On November 18, he met with the director of the Geneva Centre for

²¹ Dr. Ferrari traveled permissive TDY to Singapore, at no cost to the Government, from July 9 to July 16, 2011. During this trip he attended a graduation at the National University of Singapore, which offers a joint degree with NPS, and attended a multi-day workshop and research seminar.

Security Policy and officials from the University of Geneva. On Friday, November 19, Dr. Ferrari met with UN officials and an official from the U.S. Mission in Geneva.

80. Dr. Ferrari told us that on Saturday and Sunday, November 20 and 21, he met with an NPS employee assigned at Geneva and other people who lived in Geneva who represented organizations that had relationships with NPS. Dr. Ferrari remained in Geneva from November 22 to November 29 in a leave status and properly annotated his travel voucher to reflect this status. Dr. Ferrari did not receive reimbursement for his lodging or per diem while on leave.

81. During his trip to London and Amman, from March 31 to April 6, 2011, Dr. Ferrari was in travel status on March 31, April 2, and April 6. On April 1, while in London, Dr. Ferrari met with employees from the Office of Naval Research (ONR). While in Amman, from April 2 to April 6, he met with U.S. Embassy personnel, the president of a Jordanian university, and personnel from a Jordanian government agency. He also attended a workshop on April 5 with other NPS personnel, U.S. Embassy personnel, and local university faculty.

82. During his trip to London, Amman, and Geneva, Dr. Ferrari was in travel status on October 9, 10, 11, 14, 21, and 22. Dr. Ferrari was in London on October 11 and 21 and met with an ONR employee. On October 12 and 13, Dr. Ferrari had meetings with local university officials and at the U.S. Embassy. Dr. Ferrari departed Amman on Friday, October 14, and flew to Geneva. From Monday, October 17 to Thursday, October 20, Dr. Ferrari attended the NATO School Commandant's Conference in Geneva.

Analysis

83. Dr. Ferrari had a valid, official purpose for each of his overseas trips. He often combined destinations into a single trip which reduced the cost of his travel and the time he was away from NPS. Dr. Ferrari also established through documents and testimony that he did not unreasonably extend the time he was in travel status.

Conclusion

84. The allegation is not substantiated.

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Appendix A - Foundation Gifts 2007 - 2011

The Foundation's monetary gifts to the President's Gift Fund for the Provost's office for 2007 to 2011 are set out below.

| Date of Letter | Account | Amount |
|------------------------------|----------------|----------------|
| 1/7/07 | Provost | \$5,000 |
| 1/10/07 | Provost | \$1,500 |
| 2007 Total Cash Gifts | | \$6,500 |
| 2/20/08 | Provost | \$8,000 |
| 2008 Total Cash Gifts | | \$8,000 |
| 1/12/09 | Provost | \$5,000 |
| 2009 Total Cash Gifts | | \$5,000 |
| 1/12/10 | Provost | \$5,000 |
| 2010 Total Cash Gifts | | \$5,000 |
| 1/12/11 | Provost | \$5,000 |
| 2011 Total Cash Gifts | | \$5,000 |

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