

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(Kansas City Docket)

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No. * 19-20052-JAR/JPO

**FENG TAO,
a/k/a “Franklin Tao,”**

Defendant.

SEALED INDICTMENT

The Grand Jury charges:

At all times material to this indictment:

Introduction

1. The University of Kansas (KU, or the University) is a public research university with campuses located in Lawrence, Kansas; Kansas City, Kansas; and Overland Park, Kansas; with the main campus being located in Lawrence. It is a Kansas Board of Regents institution.
2. A component of KU is the Center for Environmentally Beneficial Catalysis (CEBC), which is located at the Life Science Research Lab (LSRL) Building B, 1501 Wakarusa Drive, Lawrence, Kansas. CEBC's research focuses on sustainable technology to conserve natural resources and energy. The CEBC performs proprietary research as well as United States Government (USG) funded research, including research under grants from the United States Department of Energy (DOE) and the National Science Foundation (NSF).
3. Feng Tao (a/k/a Franklin Tao) has been an associate professor and researcher at the CEBC since August 2014. In his capacity as a KU employee, he almost immediately began conducting research under USG funded programs. As of May 2019, in his capacity as a KU

employee, Tao was conducting research under two DOE contracts and four NSF contracts.

Tao's research included studies utilizing ambient pressure x-ray photoelectron spectroscopy (AP-XPS), which is a surface chemical analysis technique. The research is funded by DOE.

4. Fuzhou University (Fuzhou) is a university located in Fuzhou, China. It was established by the Chinese Ministry of Education in 1958 and is recognized for its studies of science and technology.

5. The Changjiang Professorship is a talent program sponsored by the Chinese government. The term "Chinese Talent Plans" refers collectively to various diverse plans designed by the Chinese government to attract, recruit, and cultivate high-level scientific talent in furtherance of China's scientific development, economic prosperity, and national security.

6. The Kansas Board of Regents has a policy requiring faculty and staff of Regents institutions (including KU) to file a conflict of interest report upon employment and at least annually thereafter. According to the Regents policy on conflicts of interest, employment outside the University can result in real or apparent conflicts of interest regarding commitment of time or effort. As an employee of the University, Tao was required to file these reports.

The Scheme

7. Beginning on or about May 1, 2018, Tao signed a five-year "Changjiang Scholar Distinguished Professor Employment Contract." The contract required Tao to be a "full time" employee at Fuzhou University. As Tao well knew, the Changjiang employment contract was a conflict of interest as it related to his KU contract. Tao did not disclose the Changjiang contract to KU; and, even after accepting the Changjiang Professorship at Fuzhou, Tao certified to KU that he did not labor under any conflict of interest. By not disclosing his position at Fuzhou, and certifying an absence of conflict, Tao was able to continue his employment with KU. His

employment with KU allowed Tao to have continued access to U.S. government grant or contract funds, which included funds not only for research but also for Tao's salary.

COUNT 1
(Wire Fraud)

8. Paragraphs 1 through 7 are incorporated herein by reference.

9. From on or about May 1, 2018, to the date of this Indictment, defendant Feng Tao, a/k/a Franklin Tao, devised and intended to devise a scheme to defraud the University of Kansas, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. It was part of the scheme that Tao knowingly and intentionally submitted to the University false statements concerning his lack of a conflict of interest.

10. On or about September 25, 2018, in the District of Kansas, the defendant,

FENG TAO,
A/K/A/ FRANKLIN TAO,

for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate commerce an online certification that he (1) read and understood the Kansas Board of Regents policy concerning conflicts of interest, (2) understood that any external personal professional activities in which he engaged that take time away from the University must not interfere with him meeting his faculty teaching and research responsibilities at the University, and (3) agreed to secure approval prior to engaging in any such external activities; all of which was in violation of Title 18, United States Code, Section 1343.

COUNT 2
(Program Fraud)

11. Paragraphs 1 through 10 are incorporated herein by reference.

12. Beginning on or about May 1, 2018, and continuing up to on or about June 30, 2019, in the District of Kansas and elsewhere, the defendant,

**FENG TAO,
A/K/A/ FRANKLIN TAO,**

being an agent of the University of Kansas (a State agency), said agency receiving in the one year period beginning May 1, 2018, benefits in excess of \$10,000 under a Federal grant sponsored by the National Science Foundation for studies of catalysis on singly dispersed bimetallic catalytic sites, embezzled, stole, and obtained by fraud, property worth at least \$5,000 that was under the care, custody and control of such agency, that is, approximately \$21,235 in salary, in violation of Title 18, United States Code, Section 666(a)(1)(A).

**COUNT 3
(Program Fraud)**

13. Paragraphs 1 through 10 are incorporated herein by reference.
14. Beginning on or about May 1, 2018, and continuing until on or about the date of this Indictment, in the District of Kansas and elsewhere, the defendant,

**FENG TAO,
A/K/A/ FRANKLIN TAO,**

being an agent of the University of Kansas (a State agency), said agency receiving in the one year period beginning May 1, 2018, benefits in excess of \$10,000 under a Federal grant sponsored by the United States Department of Energy for studies of catalysis on early transition metal oxide-based catalysts through exploration of surface structure and chemistry during catalysis using in-situ approaches, embezzled, stole, and obtained by fraud, property worth at least \$5,000 that was under the care, custody and control of such agency, that is, approximately \$11,271 in salary, in violation of Title 18, United States Code, Section 666(a)(1)(A).

**COUNT 4
(Program Fraud)**

15. Paragraphs 1 through 10 are incorporated herein by reference.

16. Beginning on or about May 1, 2018, and continuing until on or about the date of this Indictment, in the District of Kansas and elsewhere, the defendant,

**FENG TAO,
A/K/A/ FRANKLIN TAO,**

being an agent of the University of Kansas (a State agency), said agency receiving in the one year period beginning May 1, 2018, benefits in excess of \$10,000 under a Federal grant sponsored by the National Science Foundation for studies of catalysis for renewables: applications, fundamentals and technologies (“CRAFT”), embezzled, stole, and obtained by fraud, property worth at least \$5,000 that was under the care, custody and control of such agency, that is, approximately \$5,060 in salary, in violation of Title 18, United States Code, Section 666(a)(1)(A).

FORFEITURE ALLEGATION

17. The allegations contained in paragraphs 1 - 14 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

18. Upon conviction of the offenses identified in Counts 1 through 3, the defendant,

**FENG TAO,
A/K/A FRANKLIN TAO,**

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses, including, but not limited to, the following:

- A. A forfeiture money judgment in an amount equal to the amount of proceeds that the defendant obtained from the commission of Count 1; and
- B. A forfeiture money judgment in an amount equal to the amount of proceeds that the defendant obtained from the commission of Count 2.

19. If any of the property described above, as a result of any act or omission of the defendant:
- A. cannot be located upon the exercise of due diligence;
 - B. has been transferred or sold to, or deposited with, a third party;
 - C. has been placed beyond the jurisdiction of the court;
 - D. has been substantially diminished in value; or
 - E. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c); all pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL.

Dated: August 21, 2019

s/Foreperson
FOREPERSON

s/ Anthony W. Mattivi, #17082 for
STEPHEN R. MCALLISTER
United States Attorney
District of Kansas
500 State Ave., Suite 360
Kansas City, KS 66101
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Ks. S. Ct. No. 15845

(It is requested that trial of the above captioned case be held in Kansas City, Kansas.)

PENALTIES:

Ct. 1: 18 U.S.C. § 1343

- NMT 20 Years Imprisonment,
- NMT \$250,000 Fine,
- NMT 3 Years Supervised Release
- \$100 Special Assessment, and
- Forfeiture Allegation

Cts. 2 – 4: 18 U.S.C. § 666

- NMT 10 Years Imprisonment,
- NMT \$250,000 Fine,
- NMT 3 Years Supervised Release
- \$100 Special Assessment, and
- Forfeiture Allegation.