

ALERT

Arrest of Harvard Professor Reinforces Heightened Scrutiny of Federal Grant Recipients with Connections to China

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WHAT: On January 28, 2020, Charles Lieber, Chair of the Department of Chemistry and Chemical Biology at Harvard University, was arrested and charged in connection with aiding the People's Republic of China. Dr. Lieber, who served as the Principal Investigator of the Lieber Research Group at Harvard, specializes in nanoscience and has received more than \$15,000,000 in funding from the National Institutes of Health (NIH) and Department of Defense (DOD). The charge stems from fraudulent disclosures allegedly made by Dr. Lieber to federal grantors regarding his financial connections to the Chinese government.

In the affidavit supporting the criminal complaint, the FBI alleges that, beginning in 2011, Dr. Lieber worked for Wuhan University of Technology (WUT) as a "Strategic Scientist" and, from approximately 2012 to 2017, served as a contractual participant in China's Thousand Talents Plan, a strategic initiative established by the Chinese government to attract, recruit, and cultivate high-level scientific talent, all while maintaining his position at Harvard. Among other forms of support, Dr. Lieber is alleged to have collaborated on research projects with WUT and to have helped establish a nanoscience laboratory on WUT's campus bearing, without Harvard's knowledge or consent, that university's name and logo. The affidavit alleges that the Chinese government compensated Dr. Lieber for his expertise with personal financial support (including salary, living expenses, and travel expenses) and research funding.

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According to the FBI, in 2018, while Dr. Lieber was still affiliated with WUT, he lied to both DOD and NIH about his foreign research collaboration. Specifically, the affidavit alleges that Dr. Lieber falsely told DOD investigators that he had never been asked to participate in China's Thousand Talents Plan and that he caused Harvard to make materially false and misleading statements about the duration and scope of his affiliation with WUT.

Together with several other ongoing criminal matters, Dr. Lieber's case suggests that there is a growing effort by the Department of Justice to criminally prosecute U.S.-based participants of Chinese talent programs (the Thousand Talents Plan is one of several hundred separate initiatives started by the Chinese government) for crimes other than outright intellectual property theft or violation of export controls. For example, on January 24, 2020, a former Los Alamos National Laboratory Scientist, Turab Lookman, pled guilty to one count of making a false statement to the U.S. government about being recruited by, and applying to, the Thousand Talents Plan. Also, in the District of Kansas, federal prosecutors have indicted a Kansas University professor, Feng Tao, on charges of wire fraud and program fraud for allegedly hiding his participation in another Chinese talents program from his employer.

WHAT DOES IT MEAN FOR INDUSTRY: The criminal prosecution of Dr. Lieber offers a couple of key lessons for federal grantees. First, it highlights the particularly aggressive enforcement posture that federal law enforcement is exhibiting vis-à-vis grantees with ties to China. Given this posture, to avoid material omissions or misstatements during grant application and/or administration, it is essential for grantees affiliated with Chinese entities to understand fully the identity of the parties with whom they have contracted and the scope of those agreements and to consider carefully whether to disclose those affiliations.

Second, while Dr. Lieber's alleged behavior involves a specific financial conflict of interest, his prosecution suggests that the federal government may be willing to criminally charge grantees who it believes have lied to grantors about other conflicts of interest, such as competing demands on the grantee's time or resources. As such, this incident should serve as a cautionary tale—even for grantees that lack financial connections to China—that the government takes seriously all representations regarding potential conflicts of interest and can take legal action when those representations are inaccurate or misleading.