

AN OPEN LETTER FROM A WHISTLEBLOWER TO THE DIRECTOR OF NIH

March 19, 2012

Francis S. Collins, M.D., Ph.D.
Director
National Institutes of Health (NIH)
Bethesda, MD 20814

Dear Dr. Collins:

I am Nurit Kalderon, Ph.D., a neuroscientist and the principal investigator on an NIH grant, R01 NS039375, titled "Pre-Clinical Studies of Spinal Cord Injury Repair," am holding a related US Patent, and am also, under duress since March 2006, a whistleblower.

A major concern here is the disturbing discovery of betrayal of the American public trust and of the disregard and violation of Congress' NIH Reform Act of 2006 by the Director of NIH. Specifically, the mandatory annual reports about each of the pending whistleblower complaints of fraud and abuse of NIH funds that were generated and submitted by the NIH Director to Congress—in accordance with the NIH Reform Act of 2006—have been misleading and downright deceitful.

The Director's reports to Congress for the years 2007–2009¹ flagrantly and illicitly concealed my whistleblower complaints about: the financial fraud, misuse and embezzling of my NIH grant funds; the illicit handling of and deliberate injury to my intellectual property in discontinuing the funded research project; and the subsequent corruption, abuse of power and obstruction of due process perpetrated in covering up these outrageous activities.

I am writing to bring to your attention to a specific corrupt group of NIH financial administrators—disbursing officers of extramural grant awards—that operates within the Grant Management Branch (GMB) at the National Institute of Neurological Disorders and Stroke (NINDS), and to their organized financial fraud schemes.

The record shows that the GMB/NINDS leadership has no interest in supporting the NIH biomedical research mission. Instead, the primary objective of these administrators is to divert NIH research grant funds, through illicit activities, from the

¹ An extended version of this Open Letter which contains details of facts and exhibits is attached as Addendum to this letter. Copies of the Reports are enclosed as Exhibit A to the Addendum.

funded research projects into their personal enterprises. The cover-up of these illicit transactions —with the knowledge and the extensive support network provided by the upper echelon at the Director's Office— is achieved by issuing false notices of award and maintaining fraudulent bookkeeping. Altogether, these administrators have blood on their hands; having discontinued the funded research, each one of them is personally accountable to the spinal cord injured individuals who have been deprived by their actions of a promising cure.

The details of the illicit activities of this group and their collaborators with respect to my grant, funded research project and whistleblower complaints are given in the Addendum¹ which is attached to this letter. The following is a brief summary of these:

- ***The Financial Fraud.*** The embezzlement of my grant funds in the sum of \$203,132.00 and mishandling of the related research project started in April 2006 —when the grant was in transition between grantee institutions. Three administrators unlawfully discontinued and closed out the funded research project; misled and misrepresented the nature of their financial transactions; refused to communicate with me, the principal investigator; and siphoned all of the unobligated grant funds into their personal enterprises.
- ***The Cover-Up of the Fraud.*** These illicit activities were covered up by maintaining fraudulent bookkeeping; by issuing in the period June 28, 2006, through July 23, 2008, false and deceitful notices of award including defamatory inferences about me, falsely suggesting that I, the principal investigator, had abandoned the research project, leading thereby to the inevitable closeout of the project; and by refusing to provide me with financial records and related e-communication as required by law.
- ***Abuse of Power by the NIH Legal Advisor Office.*** In April 2007 non-party subpoenas were served on some of the NINDS administrators —in connection with a lawsuit under the False Claims Act against grantee institution— for document production related to my grant starting from November 2005 to the present. The NIH Deputy Legal Advisor, Ms. Patricia Kvochak (Kvochak), handled the subpoenas. The requested documents were never produced, either under subpoena, the Freedom of Information Act (FOIA) and/or the Privacy Act.

Instead Kvochak, 'under color of law' and abuse of authority, used the served subpoenas as a license to monopolize the handling of the grant and the related research project, illegally impersonating a GMB/NINDS official, a NIH Compliance and Oversight Officer, and a System Manager of the extramural research grants. Kvochak gained illicit access to my confidential and privileged grant file documents, thereby violating the Trade Secrets Act and

the Privacy Act. Further, Kvochak illicitly copied and still maintains a complete folder of these documents—including the grant proposal, salary information, study section review—in the Office of the General Counsel.

- ***Derailment of the Compliance Division Actions to Reinstate the Grant & Project.*** In the period June 2007 through March 2008 the Grants Compliance and Oversight Division (Compliance Div.) at the Office of Policy and Extramural Administration (OPERA) moved² to reinstate the funded research project and the grant at New York University (NYU), which was ready to accept the grant and project as early as March 2007. However, because the funds were already diverted and depleted in June 2006, these corrective actions were obstructed and derailed under the leadership of the Deputy NIH Legal Advisor. Kvochak and the Chief GMB/NINDS, Ms. Tijuanna DeCoster (DeCoster), targeted and systematically harassed and intimidated the officials at NYU, in particular the Director of the Center of Neural Science, Dr. Tony Movshon, by submitting a defamatory and stigmatizing Questionnaire. Consequently, by March 2008 NYU retracted its commitment to sponsored my grant and research project.
- ***Cover-Up of the Complaints and Retaliation Against the Whistleblower.*** In parallel, the financial administrators conducted a campaign of retaliation against the whistleblower, employing intimidation and defamation of the whistleblower and obstruction of the administration of justice as required under the Privacy Act. The retaliation efforts were accompanied by the cover-up of the complaints, instigated and executed³ by Kvochak in cooperation with the NIH the Senior Privacy Act Officer, Ms. Karen Plá (Plá), with the knowledge and approval of the Director of the NIH Office of Policy for Extramural Research Administration (OPERA), Mr. Joe Ellis (Ellis), and the NIH Legal Advisor, Ms. Barbara McGarey (McGarey).

I would like to emphasize that the omissions and deceit in the Director's Reports were not due to mere human error or malfeasance of a straying individual but rather a deliberate and calculated cover-up of the whistleblower complaints that was made with the knowledge, approval and/or acquiescence of the upper echelons at the Office of the Director including: the Director of OPERA, Ellis, the NIH Legal Advisor, McGarey, the Director of the Division of Program Integrity, Ms. Maritza E.

² See, Exhibit D of the Addendum.

³ Both Kvochak and Plá have assumed false NIH official identities in violation of 18 U.S.C. § 912 and violated the provisions of the Trade Secrets Act, 18 U.S.C. § 1905, and of the Privacy Act 5 18 U.S.C. § 552a (i)(3). See, Exhibits H & I of the Addendum

Zeiberg, and the Director of Division of Management Support, Ms. Katy Perry, both of the NIH Office of Management Assessment. In fact, in November 2007 one of the complaints was also brought to the attention of the NIH Director at the time, Dr. Elias Zerhouni, by the whistleblower.

Due to the actions of the above-mentioned corrupt NIH administrators I am currently unemployed and unemployable, am, since March 2006, prevented from accessing my grant funds and from performing my funded research project, and am permanently deprived from receiving federal grants and reinstating my laboratory and research to cure paralysis due to spinal cord injury.

Finally, to add insult to injury, not only did this corrupt group NIH financial administrators embezzle public funds dedicated to developing a cure for spinal cord injury, lie to and deceive Congress and the American public, they also lied to the Courts with the help and knowledge of the Justice Department. On November 3, 2008 I filed a complaint⁴ in federal court against these corrupt financial administrators and their collaborators for violating my constitutional and civil rights and several provisions of the Privacy Act. In June 2009 these individuals moved to dismiss my complaint, and in support of their motion they submitted several declarations that are false and fraudulent. Currently, the case is pending appeal³ at the US Court of Appeals, 2nd Circuit.

It is time you stop the embezzlement of public funds, stop the deception and eradicate the organized illicit enterprise at the NIH. I am requesting the following actions towards reinstating integrity at the NIH:

- i. The NIH Director should provide full transparency of the NIH actions in relation to my grant by producing a complete record of the subject grant —as previously requested by me in accordance with FOIA and the Privacy Act of 1974 and never provided. (Details are provided in the Addendum¹ Exhibit I). This information will be placed by me at <http://www.whistleblowing-nih-financial-fraud.org> to inform the American public about the misuse of their tax dollars by the NIH.
- ii. Command the correction of the fraudulent and false Notices of Grant Award and related relinquishing statements, by expunging, annulling and/or issuing new truthful documents. (Details are provided in the Addendum¹ Exhibit I.)
- iii. The NIH Director should issue an apology letter to NYU officials and to Dr. Tony Movshon with respect to the illicit Questionnaire and the harassment and coercion they were subjected to at the hands of Kvochak and DeCoster.

⁴ *Kalderon v. Finkelstein et al.* 08-cv-9440 USDC, NYSD; and 11-1227-cv, 2nd Circuit.

- iv. The NIH Director should issue a letter to the Court⁵ in the form of *Amicus* brief, serving as *amicus curiae* informing the truth about defendants⁶ actions. Specifically, detailing the fraud and abuse related to my grant and funded project that was perpetrated by each of the defendants and the abuse of power, retaliatory actions, and defamation against me, the principal investigator, performed by each of the defendants.

General Suggestions for Providing Transparency:

- i. The Director's annual report about whistleblower complaints should be more detailed, providing specific information about the complaints and their resolution, and published at the NIH website.
- ii. The Chapters of the NIH Policy Manual which deal with various aspects of grant administration, numbers 4204- through 55808-, and which are posted at <http://www1.od.nih.gov/oma/manualchapters/scripts/mcs/browse.asp> but restricted/blocked to public access should be made available to public access.

With due respect, establishing full transparency is the most crucial and decisive step towards restoring integrity at the NIH; therefore, the Director should fulfill this duty within a time-frame of a few days. Once full transparency of the NIH actions in relation to my grant is established —by producing a complete record of the subject grant within a few days— eradicating the corrupt elements/actors from the system and restoring integrity and accountability becomes a trivial matter.

Sincerely,

Nurit Kalderon, Ph.D.
Principal Investigator, NIH R01NS039375 grant
Kalderon@whistleblowing-nih-financial-fraud.org

cc:

Levinson Dan, Inspector General HHS
Kathleen Sebelius, Secretary HHS
Hon. Fred Upton, Chairman, Comm. on Energy & Commerce House of Representatives
Hon. Henry Waxman, Comm. on Energy & Commerce House of Representatives
Hon. Harold Rogers, Chairman, Comm. on Appropriations House of Representatives
Hon. Norman D. Dicks, Comm. on Appropriations House of Representatives

⁵ 2nd Cir. in the pending case *Kalderon v. Finkelstein et al.*, No. 11-1227-cv

⁶ List of defendants is available in Exhibit E of the Addendum.

Hon. Tom Harkin, Chairman, Comm. on Health, Education, Labor & Pensions US Senate
Hon. Michael B. Enzi, Comm. on Health, Education, Labor & Pensions US Senate
Hon. Daniel K. Inouye, Chairman, Comm. on Appropriations US Senate
Hon. Thad Cochran, Comm. on Appropriations US Senate
Committee On Oversight & Government Reform
James M. Anderson, M.D., Ph.D., Chairperson, NIH Council of Councils
Sally Rockey, Ph.D., NIH Deputy Director for Extramural Research
Colleen Barros, M.A., Deputy Director for Management & Chief Financial Officer
David E. Benor, Associate General Counsel, HHS Public Health Division
Preet Bharara, U.S. Attorney for the Southern District of New York

Open Letter From
A Whistleblower
To NIH Director

ADDENDUM

1. Extended Version of the Open Letter From A Whistleblower to the Director of NIH
2. Exhibits

EXTENDED VERSION

AN OPEN LETTER FROM A WHISTLEBLOWER TO THE DIRECTOR OF NIH

March 19, 2012

Francis S. Collins, M.D., Ph.D.
Director
National Institutes of Health (NIH)
Bethesda, MD 20814

Dear Dr. Collins:

The Director of the NIH has the obligation and statutory duty to establish rigorous internal controls and oversight mechanisms for ensuring integrity, accountability and transparency in the administration and management of the NIH's research grant awards of about \$25 billion per year.

Furthermore, following the NIH Reform Act of 2006, P.L. 109-482, the NIH Director—as of January 2007—has also the duty to prevent fraud and abuse including the duty to report annually to Congress, the Inspector General and the Secretary of the Department of Health and Human Services ("HHS"), "*summarizing [in this report] the activities of the NIH relating to whistleblower complaints. . . . [including] For each whistleblower complaint pending . . . (A) Each agency of the NIH involved. (B) The status of the complaint. (C) The resolution of the complaint to date.*" This annual reporting duty was codified as 42 U.S.C. § 283a-1.¹

Most reprehensibly, the NIH Director failed to provide the required leadership and neglected to fulfill his duties in a manner that has had detrimental impact in impeding research towards a cure for spinal cord injury. Instead of striving for integrity, the Director engaged in deception to Congress and the American public

¹ **42 U.S.C. § 283a-1. Annual reporting to prevent fraud and abuse**

(a) Whistleblower complaints

(1) **In general** On an annual basis, the Director of NIH shall submit to the Inspector General of the Department of Health and Human Services, the Secretary, the Committee on ... of the House of Representatives, and the Committee on ... of the Senate a report summarizing the activities of the National Institutes of Health relating to whistleblower complaints.

(2) **Contents** For each whistleblower complaint pending during the year for which a report is submitted under this subsection, the report shall identify the following: (A) Each agency of the National Institutes of Health involved. (B) The status of the complaint. (C) The resolution of the complaint to date.

regarding the fraud and abuse of NIH funds dedicated to developing a cure for this devastating injury.

The NIH Director—in violation of 18 U.S.C. § 1001²—submitted to Congress "Whistleblower Complaints" reports for the years 2007–2009 that knowingly and willfully concealed whistleblower complaints about: i. illicit handling of the NIH R01NS39375 grant funds; ii. disruption of the related funded research project by illicit closeout of the grant; and iii. fraudulent bookkeeping maintained by grant administrators at the National Institute of Neurological Disorders and Stroke (NINDS). Copies of the NIH Director Reports for the years 2007–2009 are attached here as **Exhibit A.**

The omission and deceit in the Director's Reports were not due to mere human error or malfeasance of a straying individual but rather a deliberate and calculated cover-up of the whistleblower complaints that was made with the knowledge, approval and/or acquiescence of the upper echelons at the Office of the Director, including: the Director of the NIH Office of Policy for Extramural Research Administration (OPERA), Mr. Joe Ellis (Ellis), the NIH Legal Advisor, Ms. Barbara McGarey (McGarey), the Director of the Division of Program Integrity, Ms. Maritza E. Zeiberg (Zeiberg), and the Director of Division of Management Support, Ms. Katy Perry, both of the NIH Office of Management Assessment. In fact, in November 2007 one of the complaints was also brought to the attention of the NIH Director at the time, Dr. Elias Zerhouni, by the whistleblower.

This open letter presents a brief account of these whistleblower complaints and the fraud and abuse that were omitted from the Director's Reports. It also contains brief accounts of the related campaigns of: i. obstruction and derailment of the corrective actions taken by the Grants Compliance and Oversight Division at OPERA, a campaign that has been instigated and executed by the Deputy NIH Legal Advisor, Ms. Patricia Kvochak (Kvochak); and retaliation against, intimidation and defamation of the whistleblower along with cover-up of the complaints that have been instigated and

² **18 U.S.C. § 1001. Statements or entries generally**

(a) Except as otherwise provided in this section, **whoever**, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, **knowingly and willfully--**

(1) falsifies, **conceals, or covers up by any trick, scheme, or device a material fact;**

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, . . .

shall be fined under this title, imprisoned not more than 5 years . . .

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to-

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, **or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch;**

executed³ by Kvochak in cooperation³ with the NIH Senior Privacy Act Officer, Ms. Karen Plá (Plá), with the knowledge and approval of the Director of OPERA, Ellis, and the NIH Legal Advisor, McGarey.

A. Background

The Grant and the Investigator-Initiated Research Project to Cure Paralysis

The fraud and malfeasance conducted by the NINDS administrators and the related whistleblower complaints are in connection with the investigator-initiated research grant No. R01 NS39375 (Grant), entitled “*Pre-Clinical Studies in Spinal Cord Injury Repair*,” Dr. Nurit Kalderon (Kalderon), Principal Investigator (PI), in total amount of \$2,382,457.00 for the period August 22, 2000 through July 31, 2006 [copy of Notices of Grant Award are attached as **Exhibit B**].

The funded research project is based on Kalderon's fundamental discovery that the spinal cord is able to repair itself in the early days after injury but is thwarted in its efforts during the second or third week by certain cells that block the repair process. Using this discovery, Kalderon developed⁴ in laboratory animals an effective procedure to treat spinal cord injury based on the simple principle that if one specifically targets and eliminates these intrusive cells —applying clinical radiation therapy as commonly used to eliminate tumor cells— one can maintain the natural injury repair processes as they function in any other tissue.

Results under the funded project yielded an effective treatment for severe crush spinal cord injury — similar to a human contusion/fracture injury— leading to significant repair and motor recovery —restoration of standing and stepping capacities. This treatment has been ready for testing in clinical trials since 2007. It combines the use of three conventional clinical procedures: microsurgery, radiotherapy and motor training. First, to achieve permanent wound repair the treatment combines microsurgery to drain excess fluids due to massive hemorrhage and radiotherapy to destroy harmful cells. Second, it was demonstrated⁵ that training/rehabilitation is crucial for restoring beneficial motor function following radiotherapy.

³ Both Kvochak and Plá have assumed false NIH official identities in violation of 18 U.S.C. § 912 and violated the provisions of the Trade Secrets Act, 18 U.S.C. § 1905, and of the Privacy Act 5 18 U.S.C. § 552a (i)(3) [see, Exhibit I].

⁴ These studies were published in 1996 in the *Proc. Acad. Natl. Sci., USA*, showing that radiation therapy if used within a critical period after injury can facilitate wound repair, regrowth of the severed brain-cord fibers across the lesion site, and some motor functional recovery in spinal cord transection injury.

⁵ A collaborative study with the laboratory of Dr. Reggie Edgerton at UCLA.

Further, Kalderon was issued a US Patent entitled "Beta Interferon for the Treatment of Chronic Spinal Cord Injury." This treatment was developed for chronic spinal cord injury intended to prevent the chronic inflammation and demyelination pathologies by adapting an already established clinical procedure —the use of beta interferon— for the treatment of similar pathologies in multiple sclerosis. Again, this procedure has been almost ready for testing in clinical trials since 2006.

The Corrupt Actors and the Onset of the Fraud and Malfeasance

The Corrupt Actors. The members of the organized corrupt group operating within the Division of Extramural Research (DER) at NINDS are:

- ◆ Dr. Joseph Pancrazio (Pancrazio), Program Official, Repair and Plasticity Cluster
- ◆ Mr. Edward Myrbeck (Myrbeck), Acting Section Chief, Grants Management Branch (GMB)
- ◆ Ms. Maxine Davis-Vanlue (Davis-Vanlue), Acting Chief GMB
- ◆ Ms. Tijuanna DeCoster (DeCoster), Chief GMB
- ◆ Dr. Robert Finkelstein (Finkelstein), the Director of DER/NINDS

The corrupt actors, employees of HHS who acted 'under color of law' in abuse of authority are:

- ◆ Ms. Patricia Kvochak (Kvochak), Deputy NIH Legal Advisor⁶
- ◆ Ms. Karen Plá (Plá); member of the HHS Freedom of Information/Privacy Acts Division, serving as the NIH Privacy Act Officer responsible for assuring compliance within NIH with Federal privacy laws and regulations.

The Onset of the Fraud and Malfeasance. The unauthorized handling of the funded research project and the misuse and embezzling⁷ of the Grant funds were started in April 2006 when the Grant was in transition between grantee institutions. The grant administrators, Pancrazio, Myrbeck and Davis-Vanlue, took advantage of the departure

⁶ The NIH 'Legal Advisors' are employees of the HHS Office of the General Counsel and are prohibited by law from getting involved in any of the NIH grant administration and/or any interaction with the principal investigators and sponsoring institutions. Their role is to provide the NIH Director with legal advice about compliance with and validity of non-party subpoenas served upon NIH employees.

⁷ **EMBEZZLING: 18 U.S.C. § 653. Disbursing officer misusing public funds**
Whoever, being a disbursing officer of the United States, or any department or agency thereof, or a person acting as such, in any manner converts . . . or deposits in any place or in any manner, **except as authorized by law**, any public money intrusted to him; or, **for any purpose not prescribed by law, withdraws from the Treasury or any authorized depository, or transfers, or applies, any portion of the public money intrusted to him, is guilty of embezzlement of the money** so converted, loaned, deposited, withdrawn, transferred, or applied, and shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned not more than ten years, or both;

of the Chief GMB, Mr. Michael Loewe, and instead of implementing his orders with respect to the retrieval and transfer of the Grant they: discontinued and closed out the funded research project; misled, misrepresented and refused to communicate with the PI; and siphoned the funds in the sum of \$ 203,132.00 into their personal enterprises.

The original grantee institution was Sloan-Kettering Institute for Cancer Research (Sloan-Kettering) [*see Exhibit B.*] Effective January 1, 2006, the Grant —then containing \$203,132.00 in unused funds— was transferred from Sloan-Kettering to the New York College of Podiatric Medicine (College or NYCPM), this at the request of the Principal Investigator.

The College failed⁸ to comply with its statutory obligations and responsibilities as a sponsoring institution; as a result, the research project could not be transferred to the College. By March 2006 the Principal Investigator had identified a replacement institution, and the Chief GMB, Mr. Michael Loewe, ordered that the Grant be retrieved from the College and that its transfer to the new institution be facilitated.

The Chief GMB left by the end of March 2006 and within a week, on April 7, 2006 Pancrazio, Myrbeck and Davis-Vanlue embarked on a most horrendous course of action: they deliberately discontinued and closed out the project, thereby obstructing the development of a cure for the victims of spinal cord injury. Further, they embezzled the remaining Grant funds and launched a retaliatory campaign against Kalderon, the PI and the whistleblower. In May – November 2007 the retaliatory and cover-up campaign was joined and reinforced by DeCoster, the new Chief GMB, and Finkelstein the Director of DER/NINDS.

B. The Grants' Compliance Division Attempts Since June 2007 to Restore the Funded Research at NYU

The fact that serious financial shortcomings exist in the handling of the Grant and the funded research to cure paralysis becomes clear from the actions, since June 2007, taken by the Assistant Grants Compliance Officer, Ms. Kathy Hancock (Hancock), to force the financial officials at NINDS —Finkelstein, DeCoster and Davis-Vanlue— to reinstate the Grant and the project at New York University (NYU). Hancock's actions included escalating the resolution of the issues by involving the Director of OPERA, Joe

⁸ In October 2007 the College was retroactively terminated for cause, this following the intervention of the Compliance Division which audited the College and forced it to return the entire Grant funds [*Exhibit C*]. The failure to comply was established in discovery proceedings of the federal lawsuit the PI brought against the College; this evidence was used by the Grants Compliance Division to terminate the College in its entirety. The lawsuit against the College was settled in July 31, 2007; at that time the College returned the vast majority of the Grant. Discovery documents provided by the College exposed and established the fraud and malfeasance conducted by the DER/NINDS administrators.

Ellis. However, her actions were derailed by the joint efforts of DeCoster and Kvochak (illustrated briefly below).

Some of Hancock's actions are evident from her emails cited below:

- ◆ **In June 2007** Hancock, at first aiming to retrieve the Grant, attempted to force Davis-Vanlue to obtain the delinquent Financial Status Report (FSR) from the College. Hancock wrote to Kalderon, the PI:

I spoke with Maxine [Davis-Vanlue]. We talked about the need to obtain the final Financial Status Report from the institution [College]. Maxine was going to consult with someone in her office to inquire about obtaining the delinquent report. [**Exhibit D**]

Davis-Vanlue apparently lied; no attempt was ever made to follow NIH regulations⁹ and obtain the delinquent report. The delinquent FSR [*see*, **Exhibit C**] was obtained only in October 2007 following the intervention⁸ and audit by Hancock.

- ◆ **On August 21, 2007** Hancock stepped in, in response to Kalderon's letter of August 17, 2007, in an attempt to force the transfer of the Grant and the project to NYU. Further, since NINDS officials failed to do so, Hancock also audited the College⁸. DeCoster, the Chief GMB at NINDS, seemingly complied and agreed on August 31st to accept an application from NYU, which was submitted by NYU's administration on September 17, 2007. However, at the same time DeCoster—instead of approving the transfer—initiated with the help of the Deputy Legal Advisor, Kvochak, an intimidation campaign¹⁰ to prevent the transfer.

⁹ NIH POLICY MANUAL, Chapter 55807 Submission & Receipt of FSRs and Chapter 55805 Closeout of NIH grants

¹⁰ HHS regulations dictate—based on the provision 5 USC § 552a(e)(3) of the Privacy Act—that with regard to collection of information: "**An agency may not conduct or sponsor**, and a person is not required to respond to, a collection of information **unless it displays a currently valid OMB control number**," *see*, p. 1 of **Exhibit F**. On October 12, 2007—in clear violation of this regulation and several other statutes—Kvochak designed and wrote and DeCoster **emailed** to the Director of the Center of Neural Science, Dr. Tony Movshon, and NYU's Sponsored Programs Director an intimidating and a defamatory and stigmatizing "Questionnaire." (copy attached as **Exhibit H**). DeCoster, falsely stating that the PI submitted the application, explained that this action is made for the purpose of covertly—without the knowledge of the PI—collecting information which would determine the fate of the Grant transfer. When on October 16, 2007, the PI indicated that requested information was, in fact, already included in the application for transfer that NYU submitted, Kvochak illicitly, in abuse of authority, stepped in and intimidated and harassed NYU officials and irreversibly stigmatized the PI, Kalderon. (*See*, **Exhibit H**) Indeed, at the end of the day no change was made in the application.

- ◆ **On November 9, 2007**, since the transfer was derailed, Hancock asked Kalderon, the PI, for a summary of the most disconcerting events since March 2006 in order to address these issues with her bosses, as follows:

Dear Nurit,

Would you be able or willing to provide me with a brief chronology of events that you are mostly concerned with starting with the departure from the College? I think it would be a lot easier and quicker if you did it since you are most familiar with the dates and actions taken to date. **I then will have this information to share with my bosses on Tuesday.** Thanks. [Exhibit D]

- ◆ **On November 16, 2007** Hancock wrote to DeCoster that her boss, the Director of OPERA, and she would like to schedule a meeting to discuss the cause of the derailment of the transfer of the Grant and the funded project to NYU as follows:

Dear Tia,

Joe Ellis [Director of OPERA] **and I** would like to meet with you and Dr. Bob Finkelstein [Director of DER/NINDS] on Monday or Tuesday of next week, if at all possible, to discuss **what obstacles and/or circumstances are delaying** the issuance of the Change of Institution award to **New York University** (NYU) for grant R01 NS393705-06 under the direction of Dr. Nurit Kalderon.

Because this issue has come to Dr. Zerhouni's attention, it is important that Joe be prepared to brief the Office of Director staff as soon as possible regarding this issue.

Thank you in advance for your immediate attention to this request.

Sincerely, Kathy R. Hancock [Exhibit D]

The meeting did not take place, because suddenly, DeCoster notified Ellis that the Grant was about to be transferred to NYU¹¹. However, the Grant was never¹² transferred to NYU in its entirety, and on March 19, 2008 NYU annulled its request to be grantee [more detail is given under section E below].

¹¹ Obviously, also no change and/or addition was made to the application; *see*, **Exhibit H**.

¹² On November 26, 2007 DeCoster issued a false NGA awarding to NYU only \$124,707 instead of the \$203,123 available; DeCoster refused NYU request to provide the entire amount falsely claiming it is not available because the College did not return it. *See*, **Exhibit H**.

C. The Whistleblower Complaints and Request for Transparency

There were several stages in the Principal Investigator's Whistleblower complaints, which were submitted by emails and by formal letters. At each stage the severity of the wrongdoings changed as more information became available to the PI, as follows:

- ◆ In the period June 28, 2006 through July 31, 2007: the complaints consisted of requests to retrieve the misappropriated funds from the College, and to reinstate the funded research at a replacement institution —identified by the PI, e.g., NYU. The complaints were sent to Davis-Vanlue, Myrbeck and Pancrazio, and the last one was copied to the Director of the Division of Program Integrity, Zeiberg.
- ◆ On August 17, 2007, a complaint letter entitled "**Reinstatement of R01 NS39375-06 Grant and of the Project to Cure Paralysis**" addressed to Pancrazio and copied to DeCoster and Hancock was submitted. This letter initiated the actions of Hancock as described above, whereas the same letter drove DeCoster to form alliance with Kvochak as cited in the section below.
- ◆ In the period November 27, 2007 through July 1, 2008: the complaints consisted of five separate requests to amend the Grant's file record pursuant to the Privacy Act. Four of these requests were devoted to the amendment of false financial records consisting of five Notices of Award and one Relinquishing Statement.

D. Widespread Knowledge at the Director's Office of the Whistleblower Complaints

Communication among NINDS staff and letters from NIH and HHS officials to the PI, and declarations of NINDS/NIH officials submitted to the District Court¹³ show that upper echelon officials at the NIH Director's Office were fully aware of: (i) the pending whistleblower complaints; (ii) the retaliation against the whistleblower; and (iii) the concerted actions by the NIH Legal Advisor' Office to retaliate against the PI and to obstruct the fair examination and due process of the complaints.

Nevertheless, none of these complaints was reported by the NIH Director to the Congress as required by 42 U.S.C. § 283a-1.¹ Instead, the complaints were concealed in violation of 18 U.S.C. § 1001.²

¹³ As part of the defendants' motion to dismiss the action *Kalderon v. Finkelstein et al.* 08-cv-9440 USDC, NYSD; and 11-1227-cv, 2nd Circuit.

A few of the statements made by various officials documenting the knowledge of Kalderon's complaints about abuse, misuse of the Grant funds and corruption are cited below:

- ◆ A staff member at GMB/NINDS in an internal email sent on November 16, 2006 on behalf of Davis-Vanlue noted that:

Good Morning to Everyone.

Gavin, I have taken this file from your office. This Grant was forward to you from Edward [Myrbeck]. **There were some concerns about the PI continues to contact GMB about misuse of Funds etc.** I have been told to forward any documents requested by Dr. Kalderon to FOIA. [**Exhibit E**]

- ◆ DeCoster, the Chief GMB/NINDS, in her declaration to the court¹³ of June 2009 [attached here as **Exhibit E**] explains her actions taken in response to the PI's whistleblower letter of August 17, 2007. The same letter that led Hancock at the Grants Compliance Division to intervene—to act to reinstate the funded research and transfer the Grant to NYU—prompted DeCoster to form an alliance with Kvochak to frustrate the attempts of Hancock. DeCoster explains in detail in ¶ 11 of her declaration to the court that her motivation to form an alliance with the Legal Advisor was the whistleblower complaints, as follows:

Ms. Kvochak had been representing and providing advice to NINDS with respect to subpoenas for documents ... in Dr. Kalderon's federal court litigation against NYCPM.

Thereafter, **I requested that Ms. Kvochak continue to provide informal legal advice** with respect to NINDS' handling of the R01 NS39375 Grant, **in light of Dr. Kalderon's ongoing correspondence** to NINDS personnel, including me, **alleging misconduct related to the management of the R01 NS39375 Grant.**

For example, **Dr. Kalderon sent a 27-page document** titled "**Reinstatement of R01 NS39375 Grant . . .** which was dated August 17, 2007, . . . In the document, **Dr. Kalderon alleged misconduct by NINDS officials in handling the NYCPM's termination of the grant, and also alleged that NINDS officials had refused to handle NYU's request to transfer the grant until Dr. Kalderon's lawsuit with NYCPM was resolved.**

I also believed it important to keep Ms. Kvochak informed of the facts so that she could advise me **in the event Dr. Kalderon continued to raise allegations of misconduct** concerning my ... handling of the grant. [**Exhibit E**]

- ◆ The NIH Privacy Act Officer, Plá, in a letter dated July 8, 2008 [attached here as **Exhibit E**], in response to the PI's four requests¹⁴ to amend the record, gave a sole explanation —pursuant to 5 U.S.C. § 552a (d)(B)(ii)— for the refusal to amend the false financial statements in the Notices of Award; the reason being her displeasure with the PI's allegations of financial fraud and corruption, as follows:

In closing I will say that I do not agree with **the numerous claims** and characterizations you have made about me and other NIH and NINDS staff in which **you have alleged that we are corrupt and have treated you in a fraudulent and unlawful manner**. Therefore, I will not respond to your personal opinions and incorrect statements. [Exhibit E]

- ◆ The NIH Legal Advisor, Barbara McGarey, in a letter dated July 18, 2008 [attached here as **Exhibit E**], in response to the PI's request to amend the record, noted that this request contains complaints about fraud as follows:

Also, I note that **your correspondence contains** a number of other **complaints and serious allegations**. The HHS Inspector General's Office has authority to investigate **allegations of fraud, waste and abuse involving NIH** and HHS programs and activities. [Exhibit E]

- ◆ The Deputy NIH Legal Advisor, Kvochak, in her email of June 12, 2008 [attached here as **Exhibit E**], that was written *sua sponte* in response to the PI's complaint letter to the Director of DER/NINDS, Dr. Finkelstein, entitled "Request to Access the Records Pertaining to RO1 NS39375 Grant as set forth under 5 U.S.C. § 552a (d)(1) and 45 CFR § 5b.5." intimidated and threatened Kalderon because of the fraud and abuse allegations in that letter.

The Grants Compliance Division at OPERA, in fulfillment with the Privacy Act provisions and according to the Federal Register the SORN # 09-25-0036, has sole control —as System Manager— in handling the provisions of the Privacy Act with respect to the grant files. The Legal Advisor Office under the leadership of Kvochak illicitly took control in December 2007 of the examination of the request to access and to amend the record for the purpose of silencing the whistleblower. When the PI protested and requested due process, the "Legal Advisor" intimidated and threatened the PI. An example is cited below.

¹⁴ For detail see Section C above.

On June 12, 2008, Kvochak wrote—in response to the PI's grievance letter to Finkelstein—and threatened the PI as follows:

It is my understanding that your multiple requests are being processed by Ms. Pla', the NIH Privacy Act Officer. **I will check on the progress and have her get back to you as soon as she can.**

Your allegations against me in this email are false and defamatory and **I caution you to avoid any such remarks about me or others at the NIH in the future.** We are being civil and we expect you will be as well. [Exhibit E]

E. The Fraudulent Bookkeeping and the Missing \$203,132.00 from the Grant

The above-mentioned five DER/NINDS corrupt administrators succeeded in embezzling the Grant funds by maintaining fraudulent bookkeeping—by feeding false closeout award amount and project expenditures into the NIH database—as can be seen on the NIH *RePORTER* site¹⁵ [Exhibit G and Table I below]; by issuing since June 28, 2006, a series of false Notices of Grant Award (NGA); and by refusing to disclose the financial records, related email correspondence, etc., as required by FOIA and Privacy Act.

Sloan-Kettering returned the amount of \$203,132.00 in two stages: \$171,725.00 by a Relinquishing Statement dated September 1, 2005, and \$31,407.00 by a final Financial Status Report ("FSR") dated April 18, 2006 [copies of these enclosed as **Exhibit F**].

The College returned the entire amount it received, the \$203,132.00, in two stages: \$ 78,425.00 by a Relinquishing Statement dated May 1, 2006, and \$ 124,707.00 by a **delinquent FSR** dated October 16, 2007 [copies of these enclosed as **Exhibit C**].

Fraudulent Bookkeeping

In June 2006 Pancrazio and Myrbeck with the approval of Davis-Vanlue illicitly discontinued the funded research project, closed out the project effective April 30, 2006 and stashed away into their personal enterprise the remaining Grant's funds. To cover up their misuse of funds, they engaged in fraudulent bookkeeping that resulted in a

¹⁵ The NIH RePORT Expenditures and Results, *RePORTER* system, is an electronic database repository that contains comprehensive information about the extramural NIH-funded research projects from the past 25 years including the detailed NIH funding expenditures for each project. The results of a query are returned in a project listing that includes the project number, project title, contact principal investigator, performing organization, fiscal year of funding, NIH's administering and funding institutes and centers (IC), the fiscal year total costs, expenditures, provided by each funding IC, the total funding project funding, etc.

deceitful closeout financial report for the Grant and the related research project at the NIH *RePORTER* [Exhibit G].

The financial summary for the Grant at the NIH *RePORTER* that was generated by the DER/NINDS administrators mentioned [Exhibit G] does not match the actual records at the NIH Office of Financial Management and/or at the Division of Payment Management (DPM) that were generated during the years 2000 – 2007. Altogether, a total amount of \$203,132.00 remains unaccounted for in this administrators' financial report. These disparities are summarized in Table I below.

The authorized amount awarded was \$2,382,457.00 [see Exhibit B] whereas the NIH *RePORTER* shows the false amount of \$2,304,032.00 [see Exhibit G]; missing are \$78,425.00. [See Table I below.]

Further, the NIH *RePORTER* shows false expenditures/disbursements in excess of the actual amounts recorded at the DPM: in excess of \$31,407 for Sloan Kettering [see Exhibit F], and in excess of \$ 93,300 for the College [see Exhibit C]. That is, the sum of \$124,707.00 was made available for withdrawal as these administrators saw fit, even stashing it into their personal bank accounts. [See Table I below.]

TABLE I: The Fraudulent Bookkeeping of Research Grant R01NS39375							
FY	AWARDED R01NS39375 NGA 8/22/00 Exhibit B	AWARDED <i>RePORTER</i> Exhibit G	USED by Sloan-Kett. FSR 04/16/06 Exhibit F	USED by Sloan-Kett. <i>RePORTER</i> Exhibit G	USED by NYCPM FSR 10/16/07 delinquent Exhibit C	USED by NYCPM <i>RePORTER</i> Exhibit G	Falsely Reported & Embezzled FUNDS
2000	\$ 470,918.00	\$ 470,918.00	\$ 470,918.00	\$ 470,918.00			
2001	\$ 456,909.00	\$ 456,909.00	\$ 456,909.00	\$ 456,909.00			
2002	\$ 470,616.00	\$ 470,616.00	\$ 470,616.00	\$ 470,616.00			
2003	\$ 484,735.00	\$ 484,735.00	\$ 484,735.00	\$ 484,735.00			
2004	\$ 499,279.00	\$ 420,854.00 false					\$ 78,425.00 missing
2004			\$ 296,147.00	\$ 327,554.00 false			\$ 31,407.00
2004					\$ 0.00 terminated for cause	\$ 93,300.00 false	\$ 93,300.00
Total	\$2,382,457.00	\$ 2,304,032.00	\$2,179,325.0	\$ 2,210,732.00	\$ 0.00	\$ 93,300.00	\$ 203,132.00

The most outrageous fraud: the NIH *RePORTER* falsely shows that the College was a *bona fide* authorized grantee of the funded project and had expended \$93,300 from the Grant when its rights to the Grant were retroactively terminated for cause —was forced to return the Grant in its entirety— and when the DPM never showed expenditure of such amounts.

This major fraud stems from the closing out of the project without having the required final reports and financial documentation, as listed in Appendix I of Chapter 55805 of the NIH Policy Manual, in particular the required final FSR. This resulted in falsely reporting that Sloan-Kettering and the College expended \$124,707 when that amount was returned with their FSRs. This also explains why Davis-Vanlue refused in June 2007 to obtain from the College the delinquent FSR. Once the funds are declared by the financial administrators as expended, one can easily divert these funds without being audited.

To date, almost six years later, the fate of the unaccounted for \$203,132.00 of the Grant is a highly concealed secret, guarded by the illicit refusal to provide the financial management records of the Grant. One can even assume that this amount was stashed away for the personal benefit of administrators and their collaborators under the leadership of Kvochak, the Deputy NIH Legal Advisor.

False Notices of Grant Award and Harassment of NYU

The fraud and embezzlement of the Grant's funds was further covered up by issuing of false and deceitful NGAs. For example, following the ultimatum of potential examination by the Director of OPERA, on November 26, 2007 DeCoster issued a NGA transferring the Grant but awarding NYU only \$124,707 —the amount the College was forced on October 16, 2007 to return by the delinquent FSR— instead of the \$203,123 available (copy of the NGA enclosed as **Exhibit H**). Altogether, it is unclear whether that award in the sum of \$124,707 was from the R01 NS39375 grant or paid from the discretionary funds of DER/NINDS. To cover up the illicit closeout of the funded research project the NGA in pertinent section indicates that this amount was returned by the College not in October 16, 2007 but rather on March 30, 2006, as follows:

“SECTION IV – . . .

This award **reflects** an approved change of institution for the above-named project. This award is issued using funds released by the **transfer** of this award **from the New York College of Podiatric Medicine on March 30, 2006**. Funds awarded **reflect** an **estimated balance** from the **prior institution**. If the balance has been overestimated, it may be necessary to reduce the amount of this award. **[Exhibit H]**

DeCoster knowingly continued to lie and provide a cover-up for the embezzlement of the funds. On February 8, 2008, in response to the reduced budget of NYU's award, Ms. Hodges [NYU administrator] requested of DeCoster that the missing \$78,425.00 be restored into the Grant [copy attached as **Exhibit H**]. DeCoster refused; she explained — consciously lied— that the awarded amount of \$124,706.00 was the only amount available and there would be no increase, as follows:

Ms. Hodges,

The grant was awarded based on what was relinquished by the old institution. NINDS cannot award more than is relinquished by the previous institution regardless of what is requested in the application. . . .

I don't anticipate any restoration of the funds--the grant was awarded based on what relinquished by the previous institution.

Tia [Exhibit H]

A month later NYU, being intimidated and coerced by the Kvochak–DeCoster team, decided not to accept the award altogether, writing on March 19, 2008 as follows:

Hello Tijuanna,

I am writing about the above referenced grant under PI Nurit Kalderon titled "Pre-Clinical Studies of Spinal Cord Injury Repair." **Although this grant was awarded to NYU in January 2008, no funds have been drawn down.**

NYU has decided NOT to accept the award and is looking for information on, procedurally, the best way to return these funds to the NIH. Is there any information the University is required to provide to the Grants Management Officer or Program Officer? Please let me know.

Thank you, Kari. [Exhibit H]

F. Concluding Remarks

Clearly, Congress added in 2006 the mandatory annual reporting provision about whistleblower complaints, 42 U.S.C. § 283a–1(a), because the members became aware and of pervasive abuse and fraud at the NIH and attempted to curb it.

With due respect, it is time you stop the embezzlement of public funds, stop the deception and eradicate the organized illicit enterprise at the NIH. At the conclusion of my formal Open Letter I am requesting that certain actions be taken by the Director towards reinstating integrity, transparency and accountability at the NIH.

Establishing full transparency is the most crucial and decisive step towards restoring integrity at the NIH; therefore, the Director should fulfill this duty within a time frame of a few days. Once full transparency of the NIH actions in relation to my grant is established —by producing a complete record of the subject grant within a few days— eradicating the corrupt elements/actors from the system and restoring integrity and accountability becomes a trivial matter.

Sincerely,

Nurit Kalderon, Ph.D.
Principal Investigator, NIH R01NS039375 grant
Kalderon@whistleblowing-nih-financial-fraud.org

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT A

2007 Report

1. Dr. Elias Zerhouni's letter to Daniel R. Levinson dated June 30, 2008
2. Dr. Elias Zerhouni's letter to the Hon. Edward M. Kennedy dated June 30, 2008
3. Dr. Elias Zerhouni's letter to the Hon. Michael B. Enzi dated June 30, 2008
4. Dr. Elias Zerhouni's letter to the Hon. John D. Dingell dated June 30, 2008
5. Dr. Elias Zerhouni's letter to the Hon. Joe Barton dated June 30, 2008
6. Dr. Elias Zerhouni's letter to the Hon. David R. Obey dated June 30, 2008
7. Dr. Elias Zerhouni's letter to the Hon. Jerry Lewis dated June 30, 2008
8. Dr. Elias Zerhouni's letter to the Hon. Robert C. Byrd dated June 30, 2008
9. Dr. Elias Zerhouni's letter to the Hon. Thad Cochran dated June 30, 2008
10. Annual Report on Alleged Whistleblower Complaints at NIH-2007 dated June 2008

2008 Report

11. Dr. Raynard Kington's letter to the Hon. Edward M. Kennedy dated April 06, 2008
12. Annual Report on Alleged Whistleblower Complaints at NIH, Fiscal Year 2008

2009 Report

13. Dr. Francis S. Collins' letter to the Hon. Tom Harkin dated March 10, 2009
14. Annual Report on Alleged Whistleblower Complaints at NIH, Fiscal Year 2009

These Reports were obtained by FOIA, included with the report were also the letters to the Congressional Committees as required under 42 U.S.C. § 283a-1(a)(1). The complete set of letters is included only for the year 2007.



JUN 30 2008

TO: Daniel R. Levinson
Inspector General, HHS

FROM: Director, NIH

SUBJECT: Update—Annual Report on Alleged Whistleblower Complaints at NIH, 2007—
INFORMATION

ISSUE

Section 403B(a) of the Public Health Service Act (as amended by the National Institutes of Health (NIH) Reform Act of 2006, Pub. L. No. 109-482) requires the Director of NIH to submit a report each year to the Inspector General of the Department of Health and Human Services (HHS), the Secretary of HHS, the House Committee on Energy and Commerce, the House Committee on Appropriations, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Committee on Appropriations summarizing NIH activities relating to alleged whistleblower complaints.

DISCUSSION

On December 20, 2007, I sent you our first report covering 2007. At the same time, I sent the report to the Secretary for approval to transmit it to Congress. The Secretary approved it on March 12, 2008, but we first had to address comments and recommended changes provided by the Office of the General Counsel.

Attached is the revised report for 2007, which I am now sending to Congress. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

Elias A. Zerhouni, M.D.

Attachment



JUN 30 2008

The Honorable Edward M. Kennedy
Chairman, Committee on Health,
Education, Labor and Pensions
United States Senate
Washington, D.C. 20510-6300

Dear Mr. Chairman:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable Michael B. Enzi
Ranking Member, Committee on Health,
Education, Labor and Pensions
United States Senate
Washington, D.C. 20510-6300

Dear Senator Enzi:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Elias A. Zerhouni", with a long horizontal flourish extending to the right.

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable John D. Dingell
Chairman, Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515-6115

Dear Mr. Chairman:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable Joe Barton
Ranking Member, Committee on
Energy and Commerce
House of Representatives
Washington, D.C. 20515-6115

Dear Mr. Barton:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

A handwritten signature in black ink, which appears to read "Elias A. Zerhouni", is written over a horizontal line.

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable David R. Obey
Chairman, Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable Jerry Lewis
Ranking Member, Committee
on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Lewis:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure



JUN 30 2008

The Honorable Thad Cochran
Ranking Member, Committee
on Appropriations
United States Senate
Washington, D.C. 20510

Dear Senator Cochran:

We respectfully submit the attached report pursuant to Section 403B(a) of the Public Health Service Act. The report covers complaints received in 2007. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

We look forward to continuing to work with you and other members of the Committee.

Sincerely,

Elias A. Zerhouni, M.D.
Director

Enclosure

Annual Report on Alleged Whistleblower Complaints at NIH-2007

<u>Whistleblower Complaint</u>	<u>Agency of the National Institutes of Health</u>	<u>Status</u>	<u>Resolution To Date</u>
1	Clinical Center	Completed	Resolved
2	National Institute of Environmental Health Sciences	Open	Ongoing
3	National Cancer Institute	Completed	Resolved
4	National Heart, Lung, and Blood Institute	Open	Ongoing

June 2008



APR 06 2009

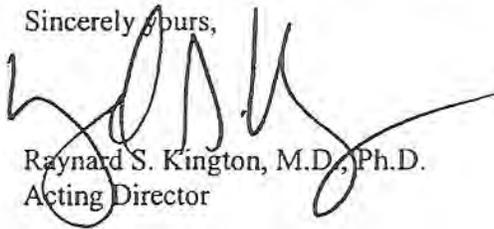
The Honorable Edward M. Kennedy
Chairman, Committee on Health,
Education, Labor, and Pensions
United States Senate
Washington, D.C. 20510-6300

Dear Mr. Chairman:

I respectfully submit the enclosed report pursuant to Section 403B(a) of the Public Health Service Act (as amended by the National Institutes of Health (NIH) Reform Act of 2006, P.L. 109-482). The report covers fiscal year 2008 complaints. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

I look forward to continuing to work with you and other members of the Committee.

Sincerely yours,



Raynard S. Kington, M.D., Ph.D.
Acting Director

Enclosure

Annual Report on Alleged Whistleblower Complaints at NIH, Fiscal Year 2008

<u>Whistleblower Complaint</u>	<u>Agency of the National Institutes of Health</u>	<u>Status</u>	<u>Resolution To Date</u>
1	National Heart, Lung, and Blood Institute	Open	Ongoing ¹
2	National Institute of Environmental Health Sciences	Completed	Resolved ¹

¹ Reported in the fiscal year 2007 Whistleblower Report.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Bethesda, Maryland 20892

MAR 10 2010

The Honorable Tom Harkin
Chairman, Committee on Health,
Education, Labor, and Pensions
United States Senate
Washington, D.C. 20510-6300

Dear Mr. Chairman:

I respectfully submit the enclosed report on alleged whistleblower complaints pursuant to Section 403B(a) of the Public Health Service Act (as amended by the National Institutes of Health (NIH) Reform Act of 2006, P.L. 109-482). The report covers fiscal year 2009 complaints. For each alleged whistleblower complaint pending during the year, the report identifies the Institute or Center involved, the status of the complaint, and the resolution of the complaint to date.

I look forward to continuing to work with you and the other members of the Committee.

Sincerely yours,

Francis S. Collins, M.D., Ph.D.
Director

Enclosure

Annual Report on Alleged Whistleblower Complaints at NIH, Fiscal Year 2009

<u>Whistleblower Complaint</u>	<u>Agency of the National Institutes of Health</u>	<u>Status</u>	<u>Resolution To Date</u>
1	National Heart, Lung, and Blood Institute	Completed	Resolved ¹

¹ Reported in the fiscal year 2008 Whistleblower Report.

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT B

**R01 NS39375 grant award \$2,382,457.00, August 22, 2000 through July 31, 2006
funding research project “*Pre-Clinical Studies in Spinal Cord Injury Repair*”**

1. Notice of Grant Award, grant No. R01 NS39375-01A1 dated August 18, 2000, funding \$2,382,457.00, FYs 2000–2004, project period 08/22/2000 – 07/31/2005.
2. Notice of Grant Award, R01 **NS39375-05** dated August 02, 2004, funding \$499,279.00, budget period 08/01/2004 - 07/31/2005.
3. Notice of No Cost Extension dated June 9, 2005 extending the funded project period until 07/31/2006.

Author: martin at Internet/dd.RFC-822=martinh\@ninds\.nih\.gov
Date: 8/19/100 8:10
Priority: Normal
CC: martin at Internet/dd.RFC-822=martinh\@ninds\.nih\.gov
TO: kalderon at Internet/dd.RFC-822=kalderon\@mskcc\.org
TO: silberp at Internet/dd.RFC-822=silberp\@ninds\.nih\.gov
Subject: FW: 1 R01 NS39375-01A1 PI: KALDERON, NURIT

----- Message Contents -----

-----Original Message-----

From: OD OER NGA Mailer
Sent: Friday, August 18, 2000 11:31 PM
To: 'sponsorp@mskcc.org'; NINDS GMB NGA
Subject: NGA: 1 R01 NS39375-01A1 PI: KALDERON, NURIT

***** NOTICE OF GRANT AWARD*****
RESEARCH Issue Date:08/17/2000
Department of Health and Human Services
National Institutes Of Health
NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Grant Number: 1 R01 NS39375-01A1
Principal Investigator: KALDERON, NURIT PHD
Project Title: PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR

DIRECTOR SPONSORED PROJECTS
SLOAN-KETTERING INST FOR CAN RES
1275 YORK AVE
NEW YORK, NY 10021

Budget Period: 08/22/2000 - 07/31/2001
Project Period: 08/22/2000 - 07/31/2005

Dear Business Official:

The National Institutes of Health hereby awards a grant in the amount of \$470,918(see 'Award Calculation' in Section I) to SLOAN-KETTERING INSTITUTE FOR CANCER RES in support of the above referenced project. This award is pursuant to the authority of 42 USC 241 42 CFR 52 and is subject to terms and conditions referenced below. Acceptance of this award including the Terms and Conditions is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

Award recipients are responsible for reporting inventions derived or reduced to practice in the performance of work under this grant. Rights to inventions vest with the grantee organization provided certain requirements are met and there is acknowledgement of NIH support. In

addition, recipients must ensure that patent and license activities are consistent with their responsibility to make unique research resources developed under this award available to the scientific community, in accordance with NIH policy. For additional information, please visit <http://www.iedison.gov>.

If you have any questions about this award, please contact the individual(s) referenced in the information below.

Sincerely yours,

King P. Bond, Jr.
Grants Management Officer
NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

See additional information below

SECTION I - AWARD DATA - 1 R01 NS39375-01A1

AWARD CALCULATION (U.S. Dollars):

Salaries and Wages	\$160,083
Fringe Benefits	\$29,296
Personnel Costs	\$189,379
Equipment	\$27,317
Supplies	\$59,758
Travel Costs	\$3,800
Other Costs	\$13,490
Direct Costs	\$293,744
F&A Costs	\$177,174
APPROVED BUDGET	\$470,918
TOTAL	\$470,918

Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project, is as follows.

02	\$456,909
03	\$470,616
04	\$484,735
05	\$499,279

FISCAL INFORMATION:
CFDA Number 93.854

EIN: 1131624182A1
Document Number: R1NS39375A
IC/ CAN / FY2000 / FY2001 / FY2002 / FY2003 / FY2004
NS/8426310/ 470,918/ 456,909/ 470,616/ 484,735/ 499,279

NIH ADMINISTRATIVE DATA:

PCC: ST08 B / OC: 41.4A /Processed: BONDK 000817 0311

Award e-mailed to: sponsorp@mskcc.org

SECTION II - PAYMENT/HOTLINE INFORMATION - 1 R01 NS39375-01A1

For Payment and HHS Office of Inspector General Hotline Information,
see the NIH Home Page at
<http://grants.nih.gov/grants/policy/awardconditions.htm>

SECTION III - TERMS AND CONDITIONS - 1 R01 NS39375-01A1

This award is based on the application submitted to, and as approved by,
the NIH on the above-titled project and is subject to the terms and
conditions incorporated either directly or by reference in the
following:

- a. The grant program legislation and program regulation cited in this
Notice of Grant Award.
- b. The restrictions on the expenditure of federal funds in
appropriations acts, to the extent those restrictions are pertinent to
the award.
- c. 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- d. The NIH Grants Policy Statement, including addenda in effect as of

the beginning date of the budget period.

- e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

(see NIH Home Page at
<http://grants.nih.gov/grants/policy/awardconditions.htm> for certain
references cited above.)

This grant is included under Expanded Authorities.

This grant is subject to Streamlined Noncompeting Award Procedures
(SNAP).

Treatment of Program Income:
Additional Costs

THE AMOUNTS INCLUDED IN THE PERSONNEL CATEGORY FOR THE TO-BE-NAMED POSITIONS, ARE RESTRICTED FOR USE WITHIN THAT CATEGORY, AND MAY NOT BE REBUDGETED INTO ANOTHER CATEGORY WITHOUT THE WRITTEN PRIOR APPROVAL OF THE NINDS.

THIS AWARD IS FUNDED BY THE NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE. ANY PAPERS PUBLISHED UNDER THE AUSPICES OF THIS AWARD MUST CITE THE FUNDING SUPPORT OF ALL INSTITUTES.

THE PROGRAM OFFICIAL IS RESPONSIBLE FOR THE SCIENTIFIC, PROGRAMMATIC AND TECHNICAL ASPECTS OF THIS PROJECT. THE GRANTS MANAGEMENT SPECIALIST IS RESPONSIBLE FOR THE NEGOTIATION, AWARD AND ADMINISTRATION OF THIS PROJECT AND FOR INTERPRETATION OF GRANTS ADMINISTRATION POLICIES AND PROVISIONS. THESE INDIVIDUALS WORK TOGETHER IN OVERALL PROJECT ADMINISTRATION. FOR UP-TO-DATE INFORMATION, YOU MAY ACCESS THE NIH HOME PAGE AT <http://www.nih.gov/> AND THE NINDS HOME PAGE AT <http://www.ninds.nih.gov>.

FOR SCIENTIFIC AND PROGRAMMATIC ISSUES FOR THE ABOVE GRANT, CONTACT DR. ARLENE Y. CHIU, PROGRAM OFFICIAL. E-MAIL ADDRESS: chiua@ninds.nih.gov OR PHONE: 301-496-4226.

FOR BUDGETARY AND POLICY ISSUES FOR THE ABOVE GRANT, CONTACT MS. RITA SISCO, GRANTS MANAGEMENT SPECIALIST. E-MAIL ADDRESS: hickeyr@ninds.nih.gov OR PHONE: 301-496-7488.

ARLENE CHIU, Program Official (301) 496-4226 AC207Q@NIH.GOV
Rita RollinsHickey, Grants Specialist

SPREADSHEET

GRANT NUMBER: 1 R01 NS39375-01A1
P.I.: KALDERON, NURIT

INSTITUTION: SLOAN-KETTERING INSTITUTE FOR CANCER RES

	YEAR 01	YEAR 02	YEAR 03	YEAR 04	YEAR 05
	=====	=====	=====	=====	=====
Salaries and Wages	160,083	164,885	169,831	174,927	180,175
Fringe Benefits	29,296	30,175	31,080	32,013	32,973
Personnel Costs	189,379	195,060	200,911	206,940	213,148
Equipment	27,317				
Supplies	59,758	61,551	63,397	65,299	67,258

YEAR 01 YEAR 02 YEAR 03 YEAR 04 YEAR 05

	=====	=====	=====	=====	=====
Travel Costs	3,800	3,914	4,032	4,152	4,277
Other Costs	13,490	13,895	14,312	14,741	15,184
TOTAL DC	293,744	274,420	282,652	291,132	299,867
TOTAL F&A	177,174	182,489	187,964	193,603	199,412
TOTAL COST	470,918	456,909	470,616	484,735	499,279
	YEAR 01	YEAR 02	YEAR 03	YEAR 04	YEAR 05
	=====	=====	=====	=====	=====
F&A Cost Rate 1	66.50%	66.50%	66.50%	66.50%	66.50%
F&A Cost Base 1	266,427	274,420	282,652	291,132	299,867
F&A Costs 1	177,174	182,489	187,964	193,603	199,412

From: Projects_Sponsored
Sent: Monday, August 02, 2004 3:07 PM
To: Marinetti, Tim D./Research Resources Mgmt; Jack, Paul G./Research Resources Mgmt
Subject: FW: 5 R01 NS39375-05 PI: KALDERON, NURIT

Importance: High

-----Original Message-----

From: OD OER NGA Mailer (NIH/OD) [mailto:ODOERNGAMAILER@OD.NIH.GOV]
Sent: Monday, August 02, 2004 2:01 PM
To: Projects_Sponsored; NINDS GMB NGA
Subject: NGA: 5 R01 NS39375-05 PI: KALDERON, NURIT

***** NOTICE OF GRANT AWARD*****
RESEARCH Issue Date:08/02/2004
Department of Health and Human Services
National Institutes of Health

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Grant Number: 5 R01 NS039375-05
Principal Investigator: KALDERON, NURIT PHD
Project Title: PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR

DIRECTOR SPONSORED PROJECTS
SLOAN-KETTERING INST FOR CAN RES
1275 YORK AVE
NEW YORK, NY 10021
10021
Award e-mailed to: sponsorp@mskcc.org

Budget Period: 08/01/2004 - 07/31/2005
Project Period: 08/22/2000 - 07/31/2005

Dear Business Official:

The National Institutes of Health hereby awards a grant in the amount of \$499,279(see 'Award Calculation' in Section I) to SLOAN-KETTERING INSTITUTE FOR CANCER RES in support of the above referenced project. This award is pursuant to the authority of 42 USC 241 42 CFR 52 and is subject to terms and conditions referenced below.

Acceptance of this award including the Terms and Conditions is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

Award recipients are responsible for reporting inventions derived or reduced to practice in the performance of work under this grant. Rights to inventions vest with the grantee organization provided certain requirements are met and there is acknowledgement of NIH support. In addition, recipients must ensure that patent and license activities are consistent with their responsibility to make unique research resources developed under this award available to the scientific

community, in accordance with NIH policy. For additional information, please visit <http://www.iedison.gov>.

If you have any questions about this award, please contact the individual(s) referenced in the information below.

Sincerely yours,

King P. Bond, Jr.
Grants Management Officer
NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

See additional information below

SECTION I - AWARD DATA - 5 R01 NS039375-05

AWARD CALCULATION (U.S. Dollars):

Federal Direct Costs	\$299,867
Federal F&A Costs	\$199,412
APPROVED BUDGET	\$499,279
TOTAL FEDERAL AWARD AMOUNT	\$499,279

FISCAL INFORMATION:

CFDA 93.853

Number:

EIN: 1131624182A1

Document Number: R1NS39375A

IC/ CAN / FY2004

NS/8426310/ 499,279

NIH ADMINISTRATIVE DATA:

PCC: CHIUA RP / OC: 41.4E /Processed: BONDKI 040730 1143

SECTION II - PAYMENT/HOTLINE INFORMATION - 5 R01 NS039375-05

For Payment and HHS Office of Inspector General Hotline Information, see the NIH Home Page at <http://grants.nih.gov/grants/policy/awardconditions.htm>

SECTION III - TERMS AND CONDITIONS - 5 R01 NS039375-05

This award is based on the application submitted to, and as approved by, the NIH on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

a. The grant program legislation and program regulation cited in this Notice of Grant Award. b. The restrictions on the expenditure of federal funds in appropriations acts, to the extent those restrictions are pertinent to the award. c. 45 CFR Part 74 or 45 CFR Part 92 as applicable. d. The NIH Grants Policy Statement, including addenda in effect as of the beginning date of the budget period. e. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

(see NIH Home Page at <http://grants.nih.gov/grants/policy/awardconditions.htm> for certain references cited above.)

An unobligated balance may be carried over into the next budget period without Grants Management Officer prior approval.

This grant is subject to Streamlined Noncompeting Award Procedures (SNAP).

Treatment of Program Income:
Additional Costs

SECTION IV - NINDS SPECIAL TERMS AND CONDITIONS

This award represents the final year of the competitive segment for this grant. Therefore, as stated in the NIH Grants Policy Statement, March 2001, part II, pages 148-149, a Financial Status Report (OMB 269) must be submitted within 90 days of the expiration date. In addition, unless an application for competitive renewal is funded, grant closeout documents consisting of a Final Invention Statement (HHS 568), (not applicable to training, construction, conference or cancer education grants) and a final progress report must also be submitted within 90 days of the expiration date. The Financial Status Report and Final

Invention Statement are available at: <http://grants.nih.gov/grants/forms.htm>.

The Final Progress Report may be typed on plain white paper and should include, at a minimum, a summary statement of progress toward the achievement of the originally stated aims, a list of results (positive or negative) considered significant, and a list of publications resulting from the project as well as plans for further publications. An original and one copy are required.

The Final Progress Report and Final Invention Statement should be sent to the awarding component.

Grants Management Branch
National Institute of Neurological Disorders and Stroke
Room 3290, MSC 9537
6001 Executive Boulevard
Rockville, MD 20852 (Express Mail)
Bethesda, MD 20892-9537 (Regular Mail)

If the grantee institution is registered to do business in the NIH Commons, the Financial Status Report (FSR) should be submitted electronically through the NIH Commons available at <https://commons.era.nih.gov/commons/>. Additional information on electronic submission of FSRs is available at the Commons Homepage or by contacting the eRA Helpdesk at: commons@od.nih.gov or (866) 504-9552.

Paper submission of Financial Status Reports may be mailed to:

Government Accounting Branch
Office of Financial Management
National Institutes of Health
31 Center Drive, Room B1B05A
MSC 2050
Bethesda, MD 20892-2050

Future year non-competing continuation applications and other documents applicable to this grant should be submitted to:

Grants Management Branch
National Institutes of Neurological Disorders and Stroke
6001 Executive Boulevard, Suite 3290, MSC 9537
Rockville, MD 20852 (Express Mail)
Bethesda, MD 20892-9537 (Regular Mail)

The program official is responsible for the scientific, programmatic and technical aspects of this project. The grants management specialist is responsible for the negotiation, award and administration of this project and for interpretation of grants administration policies and provisions. These individuals work together in overall project administration. Prior approval requests (countersigned by the PI & authorized business official) should be submitted in writing to the Grants Management Specialist. Requests may be made via e-mail provided they are routed through these same officials (listed below.) For additional information, you may access the NIH home page at <http://www.nih.gov/> and the NINDS Home Page at <http://www.ninds.nih.gov>.

ARLENE CHIU, Program Official
Phone: 301-496-1447 Email: AC207Q@NIH.GOV Fax: 301-480-1080

Gavin Wilkom, Grants Specialist
Phone: 301-496-7480 Email: gw62m@nih.gov Fax: 301-402-0219

SPREADSHEET
GRANT NUMBER: 5 R01 NS039375-05

P.I.: KALDERON, NURIT

INSTITUTION: SLOAN-KETTERING INSTITUTE FOR CANCER RES

	YEAR 05
	=====
TOTAL FEDERAL DC	299,867
TOTAL FEDERAL F&A	199,412
TOTAL COST	499,279

	YEAR 05
	=====
F&A Cost Rate 1	66.50%
F&A Cost Base 1	299,867
F&A Costs 1	199,412

From: Meagher, Richard J./Research Resources Mgmt
Sent: Thursday, June 09, 2005 5:10 PM
To: Kalderon, Nurit/Sloan-Kettering Institute
Cc: Marinetti, Tim D./Research Resources Mgmt; Defiore, Irene M./Research Resources Mgmt; Valadez, Mark/Research Resources Mgmt
Subject: FW: NIH eRA Commons: Project Extension Submitted for Grant: 5R01NS39375-5 to the NIH.

Dr. Kalderon, Tim - please note no-cost extension below.

- Rich

-----Original Message-----

From: commons@od.nih.gov [mailto:commons@od.nih.gov]
Sent: Thursday, June 09, 2005 5:07 PM
To: Meagher, Richard J./Research Resources Mgmt
Subject: NIH eRA Commons: Project Extension Submitted for Grant: 5R01NS39375-5 to the NIH.

A Project Extension Request was completed by Signing Official: Richard J Meagher for grant application: 5R01NS39375-5 associated with Principal Investigator KALDERON, NURIT using the NIH Commons. The new project end date for this grant is: 07/31/2006

This new date will now be reflected in the Application Detail section of Commons. If you have any questions about this email, please contact Richard J Meagher at meagherr@mskcc.org, who initiated this action.

Alternatively, you may contact the NIH eRA Help Desk at 1-866-504-9552 (tty: 301-451-5939) or commons@od.nih.gov <mailto:commons@od.nih.gov>.

Please access the NIH Commons at <https://commons.era.nih.gov/commons/>

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT C

New York College of Podiatric Medicine Returns the Entire Award \$203,132.00 Due to Termination for Cause

1. The College's Relinquishing Statement dated May 1, 2006
2. The College's Delinquent Financial Status Report (FSR) dated October 16, 2007

Department of Health and Human Services, Public Health Service

Official Statement Relinquishing Interests and Rights in a Public Health Service Research Grant

(Return original to awarding unit)

The PHS estimates that it will take 30 minutes to complete this form. This includes time for reviewing the instructions, gathering needed information and completing and reviewing the form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If you have comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, send comments to: NIH, Project Clearance Office, 6705 Rockledge Drive MSC 7974, Bethesda, MD 20892-7974, ATTN: PRA (0925-0001). Do not return the completed form this address.

5/1/06 (date)

Name of Institution NEW YORK COLLEGE OF PODIATRIC MEDICINE
 Address (city and state) 1800 Park Avenue
New York, NY 10035

Principal Investigator NURIT KALDERON on Public
 Health Service grant number 5 Roins 39375, will resign
 position at this Institution on or about March 15, 2006 (date)
 and has expressed a desire to continue his/her research project at the P. I. has not designated an
alternative institution. NYCPM wishes to terminate grant.

In view of the fact that we do not wish to nominate another principal investigator or continue the research project at this Institution, this is to signify our willingness to terminate this grant as of _____ (date) and to relinquish all claims to any unexpended and uncommitted funds remaining in the grant as of that date, as well as to all recommended future support of this project.

Equipment Costing \$5,000 or More Transferring with the Project (itemize)	Unexpended Balance — Estimated
1.	The unexpended balance on termination date of April 30, 200
2.	_____ calculated on basis of total amount
3.	awarded for the grant year, will be approximately
4.	\$ 47,103.36 direct cost
5.	\$ 31,323.73 indirect cost
6.	<u>78,427.09</u>

Use separate page for additional items.

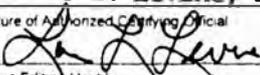
That portion of the estimated unexpended balance which has been received will be returned to the Public Health Service, upon request, with a final adjustment, if required, to be made after the grant account has been audited.

Financial Officer	Official Authorized to Sign Application
Signature  Name and Title (print or type) Richard Beecher, VP FINANCE	Signature  Name and Title (print or type) CEO AND PRESIDENT

FINANCIAL STATUS REPORT

(Long Form)

(Follow instructions on the back)

1 Federal Agency and Organizational Element to Which Report is Submitted NINDS GMB NGA		2 Federal Grant or Other Identifying Number Assigned By Federal Agency RO1 NSO 39375 - 06		OMB Approval No 0348-0039	Page of 1 pages																																																																																												
3 Recipient Organization (Name and complete address, including ZIP code) New York College of Podiatric Medicine																																																																																																	
4 Employer Identification Number 113-1632522 A-1		5 Recipient Account Number or Identifying Number NIH Grant # 053		6. Final Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																																																																																													
7. Basis <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Accrual																																																																																																	
8 Funding/Grant Period (See instructions) From: (Month, Day, Year) 8/22/2000		To: (Month, Day, Year) 7/31/2006		9 Period Covered by this Report From: (Month, Day, Year) 01/01/2008																																																																																													
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10 Transactions:																																																																																																	
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b Rate	c Base	d Total Amount	e Federal Share																																																																																														
12 Remarks Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation The investigator, Dr. Nurit Kalderon, will continue re-search at a new grantee institution. The carryover request is \$124,707.76																																																																																																	
13 Certification I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.																																																																																																	
Typed or Printed Name and Title Louis L. Levine, President & CEO				Telephone (Area code, number and extension) (212) 410-8023																																																																																													
Signature of Authorized Certifying Official 				Date Report Submitted 10/16/07																																																																																													

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT D

The Grants' Compliance & Oversight Division Actions to Reinstate the Grant and Restore the Funded Research at NYU

1. Email of the Assistant Grants Compliance Officer, Ms. Kathy Hancock (Hancock) to Dr. Nurit Kalderon (Kalderon) dated June 5, 2007.
2. Email correspondence between Hancock and Kalderon dated November 9, 2007.
3. Email correspondence between Hancock and Ms. Tijuanna DeCoster dated November 16, 2007

Kalderon, Nurit/Sloan-Kettering Institute

From: Hancock, Kathy (NIH/OD) [E] [hancockk@od.nih.gov]
Sent: Tuesday, June 05, 2007 7:19 AM
To: Kalderon, Nurit/Sloan-Kettering Institute
Subject: RE: NS39375: reinstating missing funds

Dear Nurit,

I spoke with Maxine. We talked about the need to obtain the final Financial Status Report from the institution. Maxine was going to consult with someone in her office to inquire about obtaining the delinquent report.

Regards,

Kathy R. Hancock
Assistant Grants Compliance Officer
Division of Grants Compliance and Oversight Office of Policy for Extramural Research
Administration National Institutes of Health
6705 Rockledge Drive
Rockledge 1, Room 3519
Bethesda, MD 20892
Phone: 301.435.1962
FAX: 301.435.3059

NIH is in the process of converting to SF424 (Research and Related [R&R]) forms and electronic submission through Grants.gov. Information on this plan and on registering for electronic submission is available <http://era.nih.gov/ElectronicReceipt/>.

-----Original Message-----

From: kalderon@mskcc.org [mailto:kalderon@mskcc.org]
Sent: Monday, June 04, 2007 8:08 PM
To: Hancock, Kathy (NIH/OD) [E]
Subject: NS39375: reinstating missing funds

Dear Kathy,

I'm following up today's phone conversation: did you manage to get hold of Ms. Decoster?

Many thnx

Nurit

(212) 564-9498

From: Hancock, Kathy (NIH/OD) [E] <hancockk@od.nih.gov>

[[add to contacts](#)]

To: kalderon@spinalcordcure.org

Cc:

Date: Friday, November 09, 2007 03:39 pm

Subject: RE: nyu

Attachments: [Text version of this message. \(2KB\)](#)

Great, thanks!

From: kalderon@spinalcordcure.org [mailto:kalderon@spinalcordcure.org]

Sent: Friday, November 09, 2007 3:39 PM

To: Hancock, Kathy (NIH/OD) [E]

Subject: Re: nyu

Dear Kathy,

Yes I'm definitely willing and shall do it over the weekend; it will be in your mail first thing on Monday morning and if additional clarifications are needed I'll provide these during the day so you'll have everything ready for Tuesday?

many thanks, Nurit

-----Original Message-----

From: Hancock, Kathy (NIH/OD) [E] [mailto:hancockk@od.nih.gov]

Sent: Friday, November 9, 2007 02:16 PM

To: kalderon@spinalcordcure.org

Subject: RE: nyu

Dear Nurit,

Would you be able or willing to provide me with a brief chronology of events that you are mostly concerned with starting with the departure from the College? I think it would be a lot easier and quicker if you did it since you are most familiar with the dates and actions taken to date. I then will have this information to share with my bosses on Tuesday. Thanks.

From: kalderon@spinalcordcure.org [mailto:kalderon@spinalcordcure.org]

Sent: Friday, November 09, 2007 12:40 PM

To: Hancock, Kathy (NIH/OD) [E]

Subject: nyu

Dear Kathy,

I tried to find what's the status of things at NYU but Chiye Aoki is currently attending a parents' conference at her kids' school;

here is the link to NYU <http://www.cns.nyu.edu/faculty.php> which outlines the

From: Decoster, Tijuanna (NIH/NINDS) [E]
Sent: Friday, November 16, 2007 3:06 PM
To: Hancock, Kathy (NIH/OD) [E]
Cc: Ellis, Joe [OPERA] (NIH/OD) [E]
Subject: RE: Request a meeting applicable to grant # R01 NS39375-06 PI - Dr. Nurit Kalderon

Kathy,

The meeting time is Tuesday from 4:00 – 5:00. I forgot to include the date in previous e-mail

Tia

From: Hancock, Kathy (NIH/OD) [E]
Sent: Friday, November 16, 2007 11:11 AM
To: Decoster, Tijuanna (NIH/NINDS) [E]
Cc: Ellis, Joe [OPERA] (NIH/OD) [E]; Hancock, Kathy (NIH/OD) [E]
Subject: Request a meeting applicable to grant # R01 NS39375-06 PI Dr. Nurit Kalderon
Importance: High

Dear Tia,

Joe Ellis and I would like to meet with you and Dr. Bob Finkelstein on Monday or Tuesday of next week, if at all possible, to discuss what obstacles and/or circumstances are delaying the issuance of the Change of Institution award to New York University (NYU) for grant R01 NS393705-06 under the direction of Dr. Nurit Kalderon.

Because this issue has come to Dr. Zerhouni's attention, it is important that Joe be prepared to brief the Office of Director staff as soon as possible regarding this issue.

Thank you in advance for your immediate attention to this request.

Sincerely,

Kathy R. Hancock
Assistant Grants Compliance Officer

Division of Grants Compliance and Oversight
Office of Policy for Extramural Research Administration
National Institutes of Health
6705 Rockledge Drive
Rockledge 1, Room 3519
Bethesda, MD 20892
Phone: 301.435.1962
FAX: 301.435.3059

OER - Where grants policy, program coordination, compliance and electronic research administration converge. Check out our updated Web site at <http://grants.nih.gov/>.

Decoster, Tijuanna (NIH/NINDS) [E]

From: Ellis, Joe [OPERA] (NIH/OD) [E]
Sent: Tuesday, November 20, 2007 1:51 PM
To: Decoster, Tijuanna (NIH/NINDS) [E]
Subject: RE: NS39375-06 (Nurit Kalderon)

Tia,

Looks like you are on the right course to bring this to a resolution. Thanks for pulling these considerations to a conclusion at NINDS. If OPERA can be of assistance please let us know.

Joe

From: Decoster, Tijuanna (NIH/NINDS) [E]
Sent: Tuesday, November 20, 2007 1:03 PM
To: Ellis, Joe [OPERA] (NIH/OD) [E]
Cc: Decoster, Tijuanna (NIH/NINDS) [E]
Subject: NS39375-06 (Nurit Kalderon)

Joe,

Thanks for speaking with me regarding the above referenced grant. As you indicated, there is a hiatus in the grant period (4/30-06 – 11/30/07) and an extension from the New York College of Podiatric Medicine is not necessary to process the Change of Institution to New York University.

The Type 7 anticipated start date is December 1, 2007 with an ending date of November 30, 2008 using prior year funds (FY2004) to fund this project.

Again, thanks for your assistance.

Tia

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT E

Widespread Knowledge at the Director's Office of the Whistleblower Complaints

1. An internal email from a staff member of GMB/NINDS on behalf of Ms. Maxine Davis-Vanlue dated November 16, 2006.
2. Declaration of Ms. Tijuanna DeCoster dated June 12, 2009 which submitted to the USDC, SDNY, in the action *Kalderon v. Finkelstein et al.*, 08-cv-09440, in support of defendants' motion to dismiss Kalderon's complaint.
3. A letter of Ms. Karen Plá to Dr. Nurit Kalderon (Kalderon) dated July 8, 2008.
4. A letter of Ms. Barbara McGarey to Kalderon dated July 18, 2008.
5. An email of Ms. Patricia Kvochak to Kalderon dated June 12, 2008, written in response to Kalderon's grievance letter to Dr. Robert Finkelstein.

Kibler, Brenda (NIH/NINDS) [E]

From: Kibler, Brenda (NIH/NINDS) [E]
Sent: Thursday, November 16, 2006 11:29 AM
To: Wilkom, Gavin (NIH/NINDS) [E]
Cc: Kibler, Brenda (NIH/NINDS) [E]; Davis-Vanlue, Maxine (NIH/NINDS) [E]; Bond, Kenny (NIH/NINDS) [E]
Subject: FW: FOIA-Request for Documents-NINDS
Attachments: FOIA-Request for Documents-NINDS.doc; 33286-Kalderon-req.tif



FOIA-Request for 33286-Kalderon-req
Documents-NIN... .tif (64 KB)...

Good Morning to Everyone.

Gavin, I have taken this file from your office. This Grant was forward to you from Edward. There were some concerns about the PI continues to contact GMB about misuse of Funds etc. I have been told to forward any documents requested by Dr. Kalderon to FOIA. Once I have completed the file, I will be returning the file back to your office. Thanks and have a nice Day.

-----Original Message-----

From: Cecil, Christina (NIH/NHLBI) [E]
Sent: Wednesday, November 15, 2006 3:22 PM
To: Cecil, Christina (NIH/NHLBI) [E]; bk29j@nih.gov; Davis-Vanlue, Maxine (NIH/NINDS) [E]
Subject: FOIA-Request for Documents-NINDS

Request for Documents for Case # '07-FOIA-00001-NINDS'. Due date: November 27, 2006.
Maxine: See attached FOIA request re: grant R01 NS39375. I need anything Dr. Kalderon requested from 12/1/05 through 10/31/06. If you have any questions, let me know Thank you. Christy Cecil

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NURIT KALDERON, Ph.D.,

Plaintiff,

-against-

Civil Action No. 08-09440(RJS)

DIRECTOR, ROBERT FINKELSTEIN, Ph.D.,
DIVISION OF EXTRAMURAL RESEARCH,
NATIONAL INSTITUTE OF NEUROLOGICAL
DISORDERS AND STROKE, in his individual
and official capacities,

DIVISION OF EXTRAMURAL RESEARCH,
NINDS,

DECLARATION OF
TIJUANA DECOSTER

DER/NINDS CHIEF GRANTS MANAGEMENT
OFFICER, TIJUANA E. DECOSTER, in her
individual and official capacities,

NATIONAL INSTITUTES OF HEALTH
EMPLOYEE EDWARD D. MYRBECK, in
his individual and official capacities,

NIH/NINDS EMPLOYEE JOSEPH J.
PANCAZIO, Ph.D., in his individual and
official capacities,

NIH/NINDS EMPLOYEE MAXINE
DAVIS-VANLUE, in her individual and official
capacities,

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, OFFICE OF THE
GENERAL COUNSEL, EMPLOYEE PATRICIA
A. KVOCHAK, in her individual and official
capacities,

DHHS, FOI/PRIVACY ACTS DIVISION
EMPLOYEE KAREN PLÁ, in her individual
and official capacities,

Defendants.
-----X

I, Tijuanna DeCoster, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am Chief Grants Management Officer for the Grants Management Branch, Extramural Division, National Institute of Neurological Disorders and Stroke ("NINDS"), National Institutes of Health ("NIH"). I have held this position since April 30, 2007. Unless otherwise indicated, the statements in this declaration are based on my personal knowledge or on records and information available to me in my official capacity.
2. As Grants Management Officer, I am responsible for the overall business management and other non-programmatic aspects of extramural awards made by the Extramural Division of NINDS. I supervise grant management specialists, who are involved with the management of non-programmatic aspects of specific grants awarded by the Extramural Division of NINDS, including the maintenance of grant files for the grants awarded by the Extramural Division of NINDS.

History of the R01 NS39375 Grant

3. NINDS initially awarded grant number R01 NS39375 (the "R01 NS39375 Grant") to Sloan-Kettering Institute for Cancer Research ("Sloan Kettering"), for the period 8/22/2000 to 7/31/2005. True copies of the Notices of Grant Awards ("NGAs") to Sloan Kettering for the budget periods 8/22/2000 - 7/31/2001, 8/1/2001 - 7/31/2002, 8/1/2002 - 7/31/2003, 8/1/2003 - 7/31/2004, and 8/1/2004 - 7/31/2005, are attached as Exhibit A. The Notice of Grant Award is the legally binding document that notifies the grantee and others that an award has been made, contains or references all terms and conditions of the award, and

documents the obligation of Federal funds. Dr. Kalderon was listed as the Principal Investigator of the grant on the NGAs.

4. By application dated September 1, 2005, Sloan Kettering submitted an Official Statement Relinquishing Rights in a Public Health Service Research Grant, Form PHS 3734 ("Sloan Kettering Relinquishing Statement"), indicating its willingness to terminate the grant and to relinquish all claims to unexpended and uncommitted funds remaining in the grant. The estimated unexpended balance listed on the Sloan-Kettering Relinquishing Statement was \$171,735. A true copy of the Sloan Kettering Relinquishing Statement is attached as Exhibit B.
5. By application dated October 25, 2005, a Change of Grantee Institution application was submitted by the New York College of Podiatric Medicine ("NYCPM"), seeking to transfer the R01 NS39375 Grant from Sloan Kettering to NYCPM, with NYCPM as the new grantee. A true copy of the Change of Grantee Institution application submitted by NYCPM is attached as Exhibit C.
6. By NGA dated January 3, 2006, NIH approved the transfer of the R01 NS39375 Grant to NYPCM, and awarded the amount of \$171,725 to NYCPM. Dr. Kalderon is listed as the Principal Investigator on the NGA. A true copy of the NGA, dated January 3, 2006, is attached as Exhibit D.
7. Subsequently, Sloan-Kettering electronically submitted a Financial Status Report ("FSR") to the NIH Office of Financial Management ("OFM"), which was accepted on June 20, 2006. A copy of Sloan Kettering's FSR is attached as Exhibit E. The form is not submitted to my office, i.e., Grants Management Branch. On the FSR, Sloan Kettering indicated a carryover request of

\$31,407.36 in expended funds, indicating that this amount also was to be relinquished, separate from and in addition to the \$171,735 in unexpended funds listed in its Relinquishing Statement. The normal procedure is for OFM to transfer the carryover request to the new grantee. It appears that the \$31,407.36 was in fact transferred to NYCPM, the new grantee. However, the Grants Management Branch of the Extramural Division, NINDS, was not informed of the carryover request or of the transfer of \$31,407.36 at this time.

8. By application dated May 1, 2006, NYCPM filed a Relinquishing Statement ("NYCPM Relinquishing Statement"), notifying NINDS that it was relinquishing its status as the grantee of the R01 NS39375 Grant. The form indicated NYCPM's willingness to terminate the grant and to relinquish all claims to unexpended and uncommitted funds remaining in the grant. The estimated unexpended balance listed on the NYCPM Relinquishing Statement was \$78,427.09. Dr. Kalderon is identified as the Principal Investigator of the grant on the NYCPM Relinquishing Statement. A true copy of the NYCPM Relinquishing Statement is attached as Exhibit F.
9. By NGA dated June 28, 2006, NIH acknowledged NYCPM's relinquishment of the R01 NS39375 Grant. The June 28, 2006 NGA noted that the award had been revised to reflect a decrease in the amount of \$78,425. The \$78,425 reflected the balance remaining on the award, as indicated on the NYCPM Relinquishing Statement, which balance was being relinquished from the NYCPM to NINDS. Dr. Kalderon is listed as the Principal Investigator on the NGA. A true copy of the NGA, dated June 28, 2006, is attached as Exhibit G.

10. On August 31, 2007, I sent an email to Kari Hodges of New York University ("NYU"), detailing the information needed in order for NINDS consider a Change of Institution application from NYU for the R01 NS39375 Grant. A true copy of my August 31, 2007 email is attached as Exhibit H. The email was copied to Dr. Kalderon and to Patricia Kvochak, Deputy NIH Legal Advisor. The email was in response to a conversation I had with Ms. Hodges, in which she requested such information around that time. Ms. Hodges never previously contacted me about the possibility of NYU submitting a Change of Grantee Institution application for the grant, nor had NYU previously submitted a Change of Grantee Institution application to NINDS for the R01 NS39375 Grant.
11. I copied Ms. Kvochak on the August 31, 2007 email because Ms. Kvochak had been representing and providing advice to NINDS with respect to subpoenas for documents and testimony issued against NINDS employees in Dr. Kalderon's federal court litigation against NYCPM. Thereafter, I requested that Ms. Kvochak continue to provide informal legal advice with respect to NINDS' handling of the R01 NS39375 Grant, in light of Dr. Kalderon's ongoing correspondence to NINDS personnel, including me, alleging misconduct related to the management of the R01 NS39375 Grant. For example, Dr. Kalderon sent a 27-page document titled "Reinstatement of R01 NS39375 Grant and of The Project to Cure Paralysis," which was dated August 17, 2007, but was emailed to me and other NINDS staff on August 20, 2007. In the document, Dr. Kalderon alleged misconduct by NINDS officials in handling the NYCPM's termination of the grant, and also alleged that NINDS officials had refused to handle NYU's

request to transfer the grant until Dr. Kalderon's lawsuit with NYCPM was resolved. I requested that a copy of Dr. Kalderon's submission be sent to Ms. Kvochak. I forwarded a draft of the August 31, 2007 email to Ms. Kvochak for comments, prior to sending it to NYU and to Dr. Kalderon. I believed it was important for Ms. Kvochak to be copied on my emails with NYU related to the R01 NS39375 Grant, because of Dr. Kalderon's allegations that NINDS had mishandled the grant, including the allegation that NINDS was impeding its transfer to NYU. I also believed it important to keep Ms. Kvochak informed of the facts so that she could advise me in the event Dr. Kalderon continued to raise allegations of misconduct concerning my and my office's handling of the grant. I continued to copy Ms. Kvochak on email correspondence that I sent NYU and to Dr. Kalderon.

12. By application dated September 14, 2007, NYU submitted a Change of Grantee Institution application, seeking to transfer the R01 NS39375 Grant to NYU, with NYU as the new grantee. Dr. Kalderon is identified as the Principal Investigator of the grant on the application. A true copy of the Change of Grantee Institution application submitted by NYU is attached as Exhibit I. I asked Ms. Kvochak to review my response to NYU acknowledging receipt of the application, prior to sending the email to NYU.
13. On October 12, 2007, I sent an email to Richard Louth, Director of the Office of Sponsored Programs at NYU and the person who had signed the Change of Grantee Institution application, and Dr. Tony Movshon, the Director of the Center for Neural Science at NYU. In my email, I requested that NYU answer one

question related to Dr. Kalderon's appointment at NYU and two questions concerning the laboratory facilities to be used. A true copy of my email dated October 12, 2007, is attached as Exhibit J. The NIH Grants Policy Statement states that, in reviewing a request to transfer a grant, NIH will consider, among other things, the impact of any proposed changes in the scope of the project, and whether the facilities and resources at the new organization will allow for successful performance of the project. See NIH Grants Policy Statement, pp. 108-109. Given the fact that this was the second request for transfer of the grant, and the disagreements between Dr. Kalderon and NYCPM, the prior grantee, regarding the adequacy of the facilities and resources, NINDS wanted to make sure that Dr. Kalderon would receive adequate institutional support and resources to continue the project. I copied Ms. Kvochak on the email for the same reasons described at Paragraph 11 of this declaration.

14. By email dated November 16, 2007, Ms. Kari Hodges of NYU responded to my email of October 12, 2007, and provided the information requested. After review of the information submitted by Ms. Hodges, NINDS felt that its concerns had been sufficiently addressed to allow approval of the transfer of the grant to NYU. A true copy of the November 16, 2007 email from Ms. Hodges is attached as Exhibit K.
15. Before a Notice of Grant Award to NYU could be awarded, a Financial Status Report form ("FSR") from NYCPM, the prior grantee, was needed, indicating the balance of Federal funds left on the grant. The amount of the award to NYU would be dependent on the amount indicated on the FSR submitted by the prior

grantee. By letter dated July 30, 2007, NYCPM had submitted a FSR to the NIH Office of Financial Management indicating that the total Federal funds authorized for the funding period was \$124,707.36, and indicating that the unobligated balance of Federal funds was \$106,801.55. A true copy of the NYCPM FSR, dated July 30, 2007, is attached as Exhibit L. The OFM rejected the FSR, dated July 30, 2007, submitted by NYCPM. I have no information as to why the FSR was rejected by OFM.

16. Sometime in October of 2007, I informed NYCPM of the need to submit a revised FSR, in order to close out the grant to NYCPM and so that a transfer of the award could be made to NYU. Subsequently, NYCPM submitted a revised FSR, dated October 16, 2007, indicating that the unobligated balance of Federal funds on the grant was \$124,707.36. A true copy of the NYCPM FSR, dated October 16, 2007, is attached as Exhibit M. At the time, I was not aware that NYCPM had previously indicated in its Relinquishing Statement, dated May 1, 2006, that it would be returning \$78,427 in unobligated funds. I was also unaware at the time that the NYCPM had received \$31,407.36 as a result of the carryover request from Sloan Kettering, identified on Sloan Kettering's June 20, 2006 FSR, in addition to the \$171,725 awarded as a result of the NGA dated January 3, 2006. Thus, although the total balance remaining on the grant that should have been available to NYU was either \$203,134.36 ($\$124,707.36 + \$78,427$), or \$203,132.36 ($\$171,725 + \$31,407.36$), I was aware of only \$124,706 remaining on the grant at the time of NYCPM's October 16, 2006 Relinquishing Statement. NYCPM should have submitted a revised Relinquishing Statement and a revised

FSR indicating the total amount of unobligated funds was \$203,134.36 or \$203,132.36.

17. By NGA dated November 26, 2007, NIH approved the transfer of the R01 NS39375 Grant to NYU, and awarded the amount of \$124,706 to NYU. The award amount was based on the FSR, dated October 16, 2007, submitted by NYCPM. It appears that, due to rounding by the computer, NIH awarded \$124,706 to NYU, instead of the \$124,707 indicated on the NYCPM Relinquishing Statement. Dr. Kalderon is listed as the Principal Investigator on the NGA. A true copy of the November 26, 2007 NGA is attached as Exhibit N.
18. By email dated November 27, 2007, I informed Kari Hodges of NYU that the NGA had been processed and that it was available on the NIH Commons. A true copy of my email dated November 27, 2007 is attached as Exhibit O. The NIH Commons is a computer database accessible through the Internet that allows grantees, such as NYU, to access copies of Notices of Grant Award issued by the NIH, as well as to submit financial status reports and other official documents. When a Notice of Grant Award is issued, the grantee is notified, by email sent to the email address identified by the grantee, that the NGA is available on the NIH Commons.
19. In early January of 2008, I received a telephone call from Kathy Hancock of NIH's Office of Policy for Extramural Research Administration. Ms. Hancock stated that NYU was not able to see the November 26, 2007 NGA on the NIH Commons. However, the November 26, 2007 appeared on the NIH internal version of the NIH Commons. Because NYU stated it was not able to access the

November 26, 2007 NGA on the NIH Commons, I went into the NIH system and re-issued the November 26, 2007 NGA. In order to do so, I had to change the date of the NGA to the current date of January 9, 2008. Apart from the date, the January 9, 2008 NGA, which the NIH Commons system would have automatically emailed notice of to NYU that same day, is the exact same document issued on November 26, 2007. A true copy of the January 9, 2008 NGA is attached as Exhibit P.

20. In her Request #4 to Amend Records, dated April 11, 2008, and in phone calls to me and other NINDS staff, Dr. Kalderon alleged that the award amount to NYU was incorrect. Among other things, Dr. Kalderon asserted that, in addition to the \$171,735 in unexpended funds listed in Sloan Kettering's Relinquishing Statement, Sloan-Kettering had submitted a FSR indicating carryover request of \$31,407.36 in expended funds. I reviewed the prior grant awards and documents associated with the R01 NS39375 Grant with Maxine Davis-Vanlue. Ms. Davis-Vanlue was the Acting Chief Grants Management Officer prior to April 30, 2007, when I assumed that position, and currently is a team leader under my supervision. Ms. Davis-Vanlue and I confirmed that Sloan Kettering had in fact submitted an FSR, dated June 20, 2006, with a carryover request of \$31,407.36. After our review, Ms. Davis-Vanlue and I agreed that the November 27, 2007 and January 9, 2008 NGAs, which awarded the amount of \$124,706 to NYU, should have included an additional \$78,427.
21. By NGA dated April 18, 2008, NIH revised the award to NYU related to the R01 NS39375 Grant to reflect that an additional \$78,427 in unexpended funds

remained on the grant. Dr. Kalderon was listed as the Principal Investigator on the NGA. Thus, the total amount of the grant awarded to NYU was \$203,133. Notice that the April 18, 2008 NGA had been issued would have been emailed to NYU that same day. A true copy of the April 18, 2008 NGA is attached as Exhibit Q.

22. By cover letter dated April 27, 2008, NYU wrote stating that it was relinquishing the R01 NS39375 Grant, with an effective end date of April 23, 2008. The cover letter noted that no funds had been drawn by NYU for the project. NYU also submitted a Relinquishing Statement and a FSR indicating the unobligated balance of federal funds on the grant was \$203,133. Dr. Kalderon is identified as the Principal Investigator of the grant on the Relinquishing Statement. Signed copies of these documents were forwarded to me by email on June 17, 2008. True copies of NYU's email of June 17, 2008, along with attached documents, is attached as Exhibit R.
23. By NGA dated July 23, 2008, NIH revised the award to NYU to reflect a decrease in the amount of \$203,133 with respect to the R01 NS39375 Grant. The NGA thus reflected the fact that NYU had relinquished the \$203,133 remaining on the grant back to the NIH. Dr. Kalderon is listed as the Principal Investigator on the July 23, 2008 NGA. A true copy of the July 23, 2008 NGA is attached as Exhibit S.
24. Other than NYCPM and NYU, NINDS has not received a Change of Grantee Institution application from any institution with respect to the R01 NS39375

Grant. NINDS did not receive a Change of Grantee Institution application from UCLA for the R01 NS39375 Grant.

25. I understand that the Second Amended Complaint alleges that NINDS “de facto and effectively” removed Dr. Kalderon as Principal Investigator from the R01 NS39375 Grant. The NIH Grants Policy Statement provides that an awarding office may withdraw approval of a Principal Investigator if there is reasonable basis to conclude that the Principal Investigator is no longer qualified or competent to perform. See NIH Grants Policy Statement, pp. 136-137. However, any decision by the agency to modify the terms of a grant award, by for example, withdrawing approval of a PI, would have to be made by written notice to the grantee. I am not aware of anything in the grant file indicating that the agency sought to remove Dr. Kalderon as PI from the R01 NS39375 Grant. In fact, all the NGAs issued by NIH identify Dr. Kalderon as the Principal Investigator of the R01 NS39375 Grant.

The R01 NS39375 Grant File

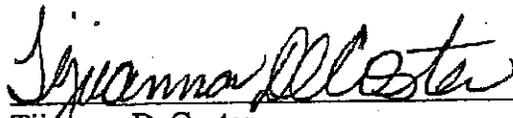
26. Since August 2007, I have maintained the grant file associated with the R01 NS39375 Grant. A grant file typically contains complete application(s), summary of review actions, award notices, progress reports, financial records, audit records, official correspondence, closeout documents and all other supporting and related papers. These categories of records are included in the grant file associated with the R01 NS39375 Grant. Records that should be maintained in a grant file include documents and material which document official actions, decisions, policies or procedures relating to the grant.

27. Before I became Chief Grants Management Officer, the grant file was maintained by Maxine Davis-Vanlue. Since August 2007, I have kept the R01 NS39375 grant file in my office. I am the only person who has had physical access to the grant file since August 2007.
28. Since I have maintained the R01 NS39375 grant file, I have included documents associated with the grant in accordance with the guidelines outlined above at Paragraph 26. Such documents include official documents associated with the R01 NS39375 Grant, including notice of grant awards and official forms submitted by the grantees, and correspondence, including email correspondence, between NINDS and the grantee organizations or the Principal Investigator, Dr. Kalderon. I have also incorporated documents that other NINDS or NIH employees have given or forwarded to me for inclusion in the grant file. I have not routinely placed internal email generated within the NINDS or NIH into the grant file, because it is my understanding that such internal email does not necessarily document official actions or decisions. In some cases, I have had to exercise my judgment in deciding that certain emails do not have sufficient informational value to warrant inclusion in the grant file.
29. I received the following requests from Dr. Kalderon for record amendment or access to records: Request for Record Amendment #1, dated November 26, 2007; Request #2 for Record Amendment, dated March 19, 2008; "Request to Access the Records Pertaining to R01 NS39375 Grant Under 5 U.S.C. § 552a(d)(1) and 45 U.S.C. § 5b.5," dated March 24, 2008 ("Request to Access Records"); and

Request #3 for Record Amendment, dated March 31, 2008. I forwarded these requests to Karen Plá, NIH Privacy Official, for response.

30. In response to Dr. Kalderon's Request to Access Records, I informed Ms. Plá that the only record under the Privacy Act that NINDS retrieves by Dr. Kalderon's name or by the grant number is the grant file associated with the R01 NS39375 Grant. Other than the grant file, NINDS does not have any other category of records that is retrieved by Dr. Kalderon's name or by the grant number R01 NS39375. I made copies of the complete grant file and provided copies to Ms. Plá. The only documents I did not provide for Ms. Plá were Dr. Kalderon's requests for record amendment and request for access to records, as Ms. Plá stated she already had those copies.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


Tijuanna DeCoster

Executed on: June 12, 2009
Bethesda, Maryland



July 8, 2008

Nurit Kalderon, Ph.D.
Laboratory of Spinal Cord Injury Repair
P.O. Box 16
New York, NY 10044

Dear Dr. Kalderon:

This is in response to your March 24, 2008 letter in which you asked under the Privacy Act to access the records pertaining to your R01 NS39375 grant. In my email to you that same day, I told you your request was quite lengthy and that it would take me some time to consider it in detail.

However, since November 27th when you sent your first request to amend your grant record, I have received multiple requests from you dated March 31, April 11, June 12 and 13 and July 1 in which you have asked that your grant record be amended.

As you know, in accordance with the Department of Health and Human Services Privacy Act Regulations, any subject individual may request that his/her record be amended if he/she believes that the record is not accurate, timely, complete, relevant or necessary to accomplish a Department function.

Although 45 CFR 5b.7(b) provides that a request for correction/amendment be acknowledged within 10 working days, the regulation does not stipulate a time limit for the processing of the complaint. Since each of your requests have been voluminous in size and complex, I have had to spend a considerable amount of time trying to understand the history of the grant in question and meet with staff to gather the documents you need in order to process them as quickly as possible.

NIH grant records are covered under Privacy Act System of Records 09-25-0036, "Extramural Awards and Chartered Advisory Committees (IMPAC 2), Contract Information (DCIS), and Cooperative Agreement Information, HHS/NIH".

In terms of your Privacy Act request for records, you requested all documents, emails, communications, letters, memoranda, minutes, financial records, audit documents, agreements, contracts, relinquishing statement, financial status reports, all drafts of said documents, and all other forms of written communication and material concerning grant R01 NS39375 from May 1, 2005 until the present generated within the entire NIH, including but not limited to the National Institute of Neurological Disorders and Stroke (NINDS), NIH Office of the Legal Advisor (OGC), Office of Financial Management (OFM) and Office of Extramural Research (OER).

In addition, you requested all emails and papers generated and/or maintained by the individual NIH employees listed below who you believe were, have been and are participating lawfully and/or unlawfully in discussing and/or determining your rights, benefits, privileges with respect to the grant, namely: Joseph Pancrazio, Naomi Kleitman, Kimberly Campbell, Gavin Wilkom, Stephanie Fertig, Michael Loewe, Eddie Myrbeck, Kenny Boyd, Maxine Davis-Vanlue, Patricia Kvochak, Tijuana DeCoster and Robert Finkelstein.

And finally, you requested we provide you with a privilege log with an explanation as to why any documents are withheld due to privilege.

I have enclosed your complete grant file. It is the only Privacy Act record NIH has that is retrieved by your name or identifier assigned to you, in this case the Principal Investigator (PI) number. Therefore, it is the only record subject to release to you under the Privacy Act.

In terms of amending your grant record, NIH has complied with your request to make computational changes to the Notice of Grant Award (NGA) which was adjusted to reflect what was relinquished by the New York College of Podiatric Medicine (NYCPM) and Sloan-Kettering.

As I said in my letter to you dated December 14, 2007, NIH was unable to amend the NYCPM Relinquishing Statement because the document was not authored by us. The award was given to the NYCPM in support of your project. Upon acceptance, the organization agreed to the “Terms and Conditions” listed on the NGA. The content of the document you requested we amend is solely the responsibility of the authors and does not necessarily represent the official views of the NINDS, or the National Institutes of Health (NIH).

Page 3 – Privacy Act Request – Dr. Nurit Kalderon

In closing I will say that I do not agree with the numerous claims and characterizations you have made about me and other NIH and NINDS staff in which you have alleged that we are corrupt and have treated you in a fraudulent and unlawful manner. Therefore, I will not respond to your personal opinions and incorrect statements.

This completes my response to your requests. If I can be of further assistance, please feel free to contact me directly at (301) 402-6201.

Sincerely,



Karen Plá
NIH Privacy Act Officer

Enclosure (1):

Complete Grant File of Nurit Kalderon, Ph.D., Principal Investigator

cc: Ms. Tijuanna Decoster, Chief Grants Management Specialist, NINDS
Dr. Robert Finkelstein, Associate Director of Extramural Research, NINDS



Public Health Division
Room 2B-50, NIH Bldg. 31
31 Center Dr., MSC 2111
Bethesda, Maryland 20892-2111
(301) 496-6043
Fax (301) 402-1034

July 18, 2008

Nurit Kalderon, Ph.D.
P.O. Box 16
New York, New York 10044

Re: **Request #7 for Record Amendment Under the Privacy Act**

Dear Dr. Kalderon:

This letter is in response to your email and FedEx package to me dated July 1, 2008. My office provides legal advice and counsel to the Department of Health and Human Services, including the National Institutes of Health. We do not serve as a point of contact for outside parties related to any official business of NIH or HHS.

Your correspondence contains a number of issues which are handled by the following points of contact within HHS. Requests for amendment of records under the Privacy Act are handled by the NIH Privacy Act Officer, Ms. Karen Pla, who was cc'd on your correspondence to me and with whom I understand you are already working. I expect Ms. Pla will be responding to this latest request. With regard to the grant-related complaints, I recommend you contact Ms. Tijuanna DeCoster, who I understand is handling the grant-related matters. **Also, I note that your correspondence contains a number of other complaints and serious allegations.** The HHS Inspector General's Office has authority to investigate allegations of fraud, waste and abuse involving NIH and HHS programs and activities. The toll-free number is (800) 447-8477.

I hope this information is helpful.

Sincerely,

Barbara M. McGarey, J.D.
NIH Legal Advisor

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From: Kvochak, Patricia (NIH/OD) [E] <KvochakP@od31tm1.od.nih.gov>

[[add to contacts](#)]

To: kalderon@spinalcordcure.org

Cc: Ellis, Joe [OPERA] (NIH/OD) [E] <ellisj1@od.nih.gov>, Decoster, Tijuanna (NIH/NINDS) [E] <decostert@ninds.nih.gov>, Pancrazio, Joseph (NIH/NINDS) [E] <pancrazj@ninds.nih.gov>, Pla, Karen (NIH/OD) [E] <PlaK@od.nih.gov>, Finkelstein, Robert (NIH/NINDS) [E] <FinkelsR@ninds.nih.gov>

Date: Thursday, June 12, 2008 04:29 pm

Subject: RE: Request to Access Record

Attachments:  Text version of this message. (1KB)

It is my understanding that your multiple requests are being processed by Ms. Pla', the NIH Privacy Act Officer. I will check on the progress and have her get back to you as soon as she can.

Your allegations against me in this email are false and defamatory and I caution you to avoid any such remarks about me or others at the NIH in the future. We are being civil and we expect you will be as well.

You are incorrect that Dr. Finkelstein is responsible for responding to your Privacy Act requests. You need to continue to deal with Ms. Pla'.

Patricia A. Kvochak
Deputy NIH Legal Advisor
NIH Bldg. 31/Room 2B50
31 Center Dr., MSC 2111
Bethesda, MD 20892-2111
(301) 496-6043, ext. 13 (phone)
(301) 402-1034 (fax)

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-----Original Message-----

From: kalderon@spinalcordcure.org [mailto:kalderon@spinalcordcure.org]

Sent: Thursday, June 12, 2008 12:50 PM

To: Finkelstein, Robert (NIH/NINDS) [E]

Cc: Ellis, Joe [OPERA] (NIH/OD) [E]; Ellis, Joe [OPERA] (NIH/OD) [E]; Decoster, Tijuanna (NIH/NINDS) [E]; Pancrazio, Joseph (NIH/NINDS) [E]; Pla, Karen (NIH/OD) [E]; Kvochak, Patricia (NIH/OD) [E]; Kvochak, Patricia (NIH/OD) [E]

Subject: Request to Access Record

Dear Dr. Finkelstein,

Attached for your attention is a letter (PDF file) entitled "Request to Access the Records Pertaining to RO1 NS39375 Grant as set forth under 5 U.S.C. § 552a (d)(1) and 45 CFR § 5b.5." which is also Faxed and is copied to the individuals listed above.

Thank you.

Nurit Kalderon

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT F

Sloan-Kettering Returns the Unobligated Sum of \$203,132.00 of the R01NS39375

1. Sloan-Kettering's Relinquishing Statement dated September 1, 2005.
2. Sloan-Kettering's Financial Status Report (FSR) dated April 18, 2006.
3. Closeout Statement of Sloan-Kettering's authorized expenditures from the R01NS39375 grant as reported at the HHS Division of Payment Management dated July 10, 2007.

Department of Health and Human Services, Public Health Service

Official Statement Relinquishing Interests and Rights in a Public Health Service Research Grant

(Return original to awarding unit)

The PHS estimates that it will take 30 minutes to complete this form. This includes time for reviewing the instructions, gathering needed information and completing and reviewing the form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If you have comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, send comments to: NIH, Project Clearance Office, 6705 Rockledge Drive MSC 7974, Bethesda, MD 20892-7974, ATTN: PRA (0925-0001). Do not return the completed form to this address.

9/1/05 (date)

Name of Institution Sloan-Kettering Institute for Cancer Research
 Address (city and state) 1275 York Avenue
New York, NY 10021

Principal Investigator Nurit Kalderon on Public
 Health Service grant number 5 R01NS39375, will resign
 position at this Institution on or about November 30, 2005 (date)
 and has expressed a desire to continue his/her research project at the
 New York College of Podiatric Medicine

In view of the fact that we do not wish to nominate another principal investigator or continue the research project at this Institution, this is to signify our willingness to terminate this grant as of 11/30/05 (date) and to relinquish all claims to any unexpended and uncommitted funds remaining in the grant as of that date, as well as to all recommended future support of this project.

Equipment Costing \$5,000 or More Transferring with the Project (<i>itemize</i>)	Unexpended Balance — Estimated
1. Digital Qimaging camera, \$15,843.05, buy in 2001.	The unexpended balance on termination date of <u>11/30/05</u> calculated on basis of total amount awarded for the grant year, will be approximately \$ 103,138 direct cost \$ 68,587 indirect cost.
2.	
3.	
4.	
5.	
6.	
<i>Use separate page for additional items.</i>	

That portion of the estimated unexpended balance which has been received will be returned to the Public Health Service, upon request, with a final adjustment, if required, to be made after the grant account has been audited.

Financial Officer	Official Authorized to Sign Application
Signature 	Signature 
Name and Title (<i>print or type</i>) Peter Beresdetsky Director, Research Administration	Name and Title (<i>print or type</i>) James S. Quirk Senior Vice President, Research Resources Mgmt.

Department of Health and Human Services Final Invention Statement and Certification <i>(For Grant or Award)</i>	DHHS Grant or Award No. RO1 NS39375
---	--

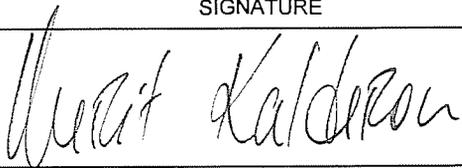
A. We hereby certify that, to the best of our knowledge and belief, all inventions are listed below which were conceived and/or first actually reduced to practice during the course of work under the above-referenced DHHS grant or award for the period

August 22, 2000 through November 30, 2005
original effective date *date of termination*

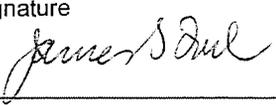
B. Inventions (Note: If no inventions have been made under the grant or award, insert the word "NONE" under Title below.)

NAME OF INVENTOR	TITLE OF INVENTION	DATE REPORTED TO DHHS
Nurit Kalderon, Ph.D.	Beta Interferon for the Treatment of Chronic Spinal Cord Injury	August 16, 2004
<i>(Use continuation sheet if necessary)</i>		

C. First Signature — The person responsible for the grant or award is required to sign (in ink). Sign in the block opposite the applicable type of grant or award.

TYPE OF GRANT OR AWARD	WHO MUST SIGN <i>(title)</i>	SIGNATURE
Research Grant	Principal Investigator or Project Director Nurit Kalderon, Ph.D.	
Health Services Grant	Director	
Research Career Program Award	Awardee	
All other types <i>(specify)</i> :	Responsible Official	

D. Second Signature — This block *must* be signed by an official authorized to sign on behalf of the institution.

Title Senior Vice President, Research Resources Mgmt.	Name and Mailing Address of Institution Sloan-Kettering Institute for Cancer Research Box 280 1275 York Avenue New York, NY 10021
Typed Name Mr. James S. Quirk	
Signature 	Date 10/05/05

1. Federal Agency and Organizational Element to Which Report is Submitted NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE		2. Federal Grant or Other Identifying Number 5R01NS039375-5		
3. Recipient Organization (Name and complete address, including ZIP code) SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH 1275 YORK AVE NEW YORK NY 100216007		4. Employer Identification Number 1131624182A1		
		5. Recipient Account Number 67990		
		6. Final Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	7. Basis <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Accrual	
8. Funding/Grant Period		9. Period Covered by this Report		
From 08/22/2000	To 12/31/2005	From 08/01/2004	To 12/31/2005	
10. Transactions:		Previously Reported	This Period	Cumulative
a. Total outlays		0.00	2,179,324.64	2,179,324.64
b. Refunds, rebates, etc		0.00	0.00	0.00
c. Program income used in accordance with the deduction alternative		0.00	0.00	0.00
d. Net outlays (Line a, less the sum of the lines b and c)		0.00	2,179,324.64	2,179,324.64
Recipient's share of net outlay, consisting of:				
e. Third Party (In-kind) contributions.		0.00	0.00	0.00
f. Other Federal awards authorized to be used to match this award.		0.00	0.00	0.00
g. Program income used in accordance with the matching or cost sharing alternative		0.00	0.00	0.00
h. All other recipient outlays not shown on lines e, f or g		0.00	0.00	0.00
i. Total recipient share of net outlays (Sum of lines e, f, g and h)		0.00	0.00	0.00
j. Federal share of net outlays (line d less line i)		0.00	2,179,324.64	2,179,324.64
k. Total unliquidated obligations				0.00
l. Recipient's share of unliquidated obligations				0.00
m. Federal share of unliquidated obligations				0.00
n. Total Federal share (sum of lines j and m)				2,179,324.64
o. Total Federal funds authorized for this funding period				2,210,732.00
p. Unobligated balance of Federal funds (lines o minus line n)				31,407.36
Program Income, consisting of:				
q. Disbursed program income shown on lines c and/or g above				0.00
r. Disbursed program income using addition alternative				0.00
s. Undisbursed program income				0.00
t. Total program income realized (Sum of lines q, r and s)				0.00
11. Indirect Expense		a. Type of Rate Provisional <input type="checkbox"/> Predetermined <input checked="" type="checkbox"/> Final <input type="checkbox"/> Fixed <input type="checkbox"/>	e. Total Amount Federal Share 853,799.37	
		b. Rate 66.50	c. Base 1,283,908.83	d. Total Amount 853,799.37
Total		66.50	1,283,908.83	853,799.37
12. Remarks		Grant is being relinquished. Investigator will continue research at the New York College of Podiatric Medicine.		Carryover Request 31,407.36
13. Authorized Official		Name Gregory Antonecchia Title Mgr, Grants & Contracts Accounting	Telephone (Area code, number, and extension) 646-227-3882	Date Report Submitted 04/18/2006
14. Approved by		Name		Date Report Accepted

INQUIRY: Disbursement Transactions

DATE: 07/10/2007 TIME: 01:35:23 PM

*** SEARCH PARAMETERS *****
 GRANT AWARD: R1NS39375A

 *ACCT** *PIN* ****EIN***** *****DUNS***** *****Organization Name*****
 7780G 7780 1131624182A1 SLOAN KETTERING INSTITUTE FOR CANCER RESEA
 HHS-REG: 02 STATE: NY PMT: ACH STOP: N MAN-REV: N 272; File GROUP: F24A USER: VNK5RJ

 DOC:R1NS39375A AGY:FHHN842 OLD AGY:842 DISB TC's Follo
 T/C ***ROD**** *****INC-AMT***** *****CUM-AMT***** POST DATE* *FY* *****CAN*****
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 084 12/31/2005 -104,293.68 2,210,732.00 03/02/2006 2004 84263
 084 09/30/2005 79,717.75 2,315,025.68 12/13/2005 2004 84263
 084 06/30/2005 123,716.95 2,235,307.93 08/08/2005 2004 84263
 084 03/31/2005 140,469.43 2,111,590.98 05/24/2005 2004 84263
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 084 06/30/2004 112,030.00 1,746,173.00 09/29/2004 2003 84263
 084 03/31/2004 102,149.00 1,634,143.00 06/04/2004 2003 84263
 084 12/31/2003 133,551.00 1,531,994.00 03/10/2004 2003 84263
 084 12/31/2003 21,409.00 1,398,443.00 03/10/2004 2002 84263
 084 09/30/2003 90,456.00 1,377,034.00 12/24/2003 2002 84263
 084 06/30/2003 130,962.00 1,286,578.00 09/05/2003 2002 84263
 084 03/31/2003 121,812.00 1,155,616.00 06/11/2003 2002 84263
 084 12/31/2002 105,977.00 1,033,804.00 02/27/2003 2002 84263
 084 12/31/2002 75,761.00 927,827.00 02/27/2003 2001 84263
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 084 06/30/2002 125,945.00 801,521.00 08/16/2002 2001 84263
 084 03/31/2002 121,323.00 675,576.00 06/04/2002 2001 84263
 084 12/31/2001 83,335.00 554,253.00 02/19/2002 2001 84263
 084 12/31/2001 74,239.00 470,918.00 02/19/2002 2000 84263
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 084 06/30/2001 101,087.55 270,015.00 08/15/2001 2000 84263
 084 03/31/2001 102,390.93 168,927.45 07/03/2001 2000 84263
 084 12/31/2000 66,536.52 66,536.52 05/09/2001 2000 84263

Hits: 26

 ***** Inquiry Results Complete *****

 You may now make another selection from the Menu

INQUIRY: Document Data w/ FCO Segments DATE: 07/10/2007 TIME: 01:35:56 PM

*** SEARCH PARAMETERS *****

GRANT AWARD: R1NS39375A

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*ACCT* *PIN* ****EIN***** ****DUNS***** *****Organization Name*****
7780G  7780  1131624182A1                SLOAN KETTERING INSTITUTE FOR CANCER RESEA
HHS-REG: 02 STATE: NY PMT: ACH STOP: N MAN-REV: N 272: File GROUP: F24A USER: VNK5RJ
AGY* *****GRANT***** ****AUTHORIZED**** ****DISBURSED**** ****CHG-ADV**** *RP
      ****CANCELED AUTH** **CANCELED DISB** **CANCELED CHG**
      ****FCO***** ****FUTURE AUTH** **FCO DISBURSED** ****FCO CHG-ADV**
8      R1NS39375A                2,179,324.64          2,179,324.64          2,179,324.64 06/
      927,827.00                927,827.00          927,827.00          927,827.00
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      2001-8426310-414E          456,909.00          456,909.00          456,909.00
      2002-8426310-414E          470,616.00          470,616.00          470,616.00
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      2004-8426310-414E          296,146.64          296,146.64          296,146.64
  
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      **DOC CANCEL AUTH** *DOC CANCEL DISB** **DOC CANCEL CHG
      ***FCO AUTHORIZED** **FCO DISBURSED** ****FCO CHG-ADV*
TOTAL:                2,179,324.64          2,179,324.64          2,179,324.64
      927,827.00                927,827.00          927,827.00
      2,179,324.64                2,179,324.64          2,179,324.64
  
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OPEN & CLOSED:        1,412,038,868.12    1,304,277,632.94    1,331,089,274.
OPEN:                  438,535,525.72        330,774,290.54      357,585,932.
CLOSED:                 973,503,342.40        973,503,342.40      973,503,342.
  
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Hits: 5

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*****
***** Inquiry Results Complete *****
*****
You may now make another selection from the Menu
  
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EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT G

Fraudulent Bookkeeping & the Missing \$203,132.00

1. The financial closeout* report obtained from the NIH The RePORT Expenditures and Results, *RePORTER* system, for the R01NS39375 grant.

* Note, closeout date April 30, 2006 no organization is listed beyond this date and grant beyond 7R01NS039375-06

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Principal Investigator / Project Leader: Kalderon, Nurit, Fiscal Year: 2012, 2011, 2010, 2009, 2008, 2007, 2006, 2005, 2004, 2003, 2002, 2001, 2000, 1999

Click on the column header to sort the results

Page 1 of 1

Project Number	Sub #	Project Title	Contact PI / Project Leader	Organization	FY	Admin IC	Funding IC	FY Total Cost by IC	Similar Projects
7R01NS039375-06		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	NEW YORK COLLEGE OF PODIATRIC MEDICINE	2004	NINDS	NINDS	\$93,300	
5R01NS039375-05		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	SLOAN-KETTERING INSTITUTE FOR CANCER RES	2004	NINDS	NINDS	\$327,554	
5R01NS039375-04		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	SLOAN-KETTERING INSTITUTE FOR CANCER RES	2003	NINDS	NINDS	\$484,735	
5R01NS039375-03		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	SLOAN-KETTERING INSTITUTE FOR CANCER RES	2002	NINDS	NINDS	\$470,616	
5R01NS039375-02		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	SLOAN-KETTERING INSTITUTE FOR CANCER RES	2001	NINDS	NINDS	\$456,909	
1R01NS039375-01A1		PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR	KALDERON, NURIT	SLOAN-KETTERING INSTITUTE FOR CANCER RES	2000	NINDS	NINDS	\$470,918	

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Search resulted in 1 Administering Institute/Centers.

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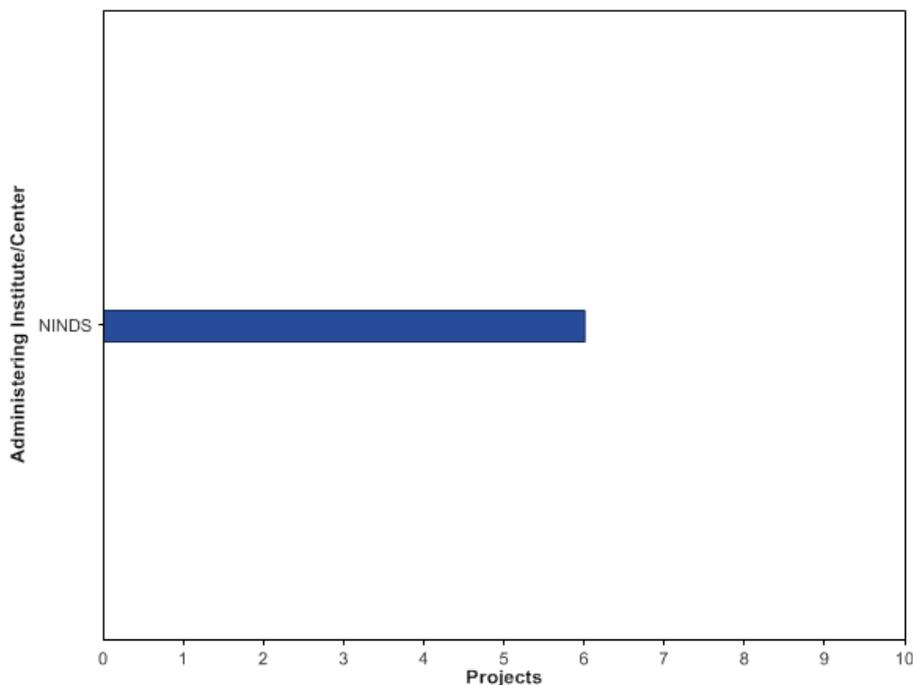
Principal Investigator / Project Leader: Kalderon, Nurit, **Fiscal Year:** 2012, 2011, 2010, 2009, 2008, 2007, 2006, 2005, 2004, 2003, 2002, 2001, 2000, 1999

Summary by Administering Institute/Center **Chart** Projects Project Funding

Please note that if the hit list contains both a subproject and its parent grant, the subproject funding is already included in the parent project funding amount.

*Funding data available only for NIH and CDC, fiscal years 2000 and later.

Administering Institute/Center	Projects ▲	Project Funding	Sub Project	Sub Project Funding
NINDS	6	\$2,304,032		
Total	6	\$2,304,032		



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7R01NS039375-06

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[DESCRIPTION](#) | [DETAILS](#) | [RESULTS](#) | [HISTORY](#) | [SUBPROJECTS](#) | [LINKS BETA](#) | [NEWS AND MORE BETA](#)

Project Number: 7R01NS039375-06 **Contact PI / Project Leader:** [KALDERON, NURIT](#)
Title: PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR **Awardee Organization:** NEW YORK COLLEGE OF PODIATRIC MEDICINE

<p>Contact PI / Project Leader Information: !</p> <p>Name: KALDERON, NURIT </p> <p>Email: Click to view Contact PI / Project Leader email address</p> <p>Title:</p>	<p>Program Official Information:</p> <p>Name: PANCRAZIO, JOSEPH J.</p> <p>Email: Click to view PO email address</p>	<p>Other PI Information: ! Profile Exists ! No Profile</p> <p>Not Applicable</p>
<p>Organization:</p> <p>Name: NEW YORK COLLEGE OF PODIATRIC MEDICINE City: NEW YORK Country: UNITED STATES (US)</p>	<p>Department/ Educational Institution Type:</p> <p>MISCELLANEOUS COLLEGES OF PODIATRIC MEDICINE</p>	<p>Congressional District:</p> <p>State Code: NY District: 15</p>

Other Information:

FOA:	DUNS Number:	CFDA Code:	853
Study Section: Special Emphasis Panel [ZRG1-BDCN-1 (01)]	Project Start Date: 22-AUG-2000	Project End Date: 30-APR-2006	
Fiscal Year: 2004 Award Notice Date: 3-JAN-2006	Budget Start Date: 1-JAN-2006	Budget End Date: 30-APR-2006	

Administering Institutes or Centers:
 NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Project Funding Information for 2004:

Total Funding: \$93,300

Year	Funding IC	FY Total Cost by IC
2004	NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE	\$93,300

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Page Last Updated on March 1, 2012

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EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT H

Harassment of NYU, the Cover-up of the Fraud & the False Notices of Award

1. Questionnaire and email correspondence related to the Grant's transfer to New York University (NYU):
 - i. Questionnaire from Ms. Tijuanna DeCoster (DeCoster) to Dr. Tony Movshon and Mr. Richard Louth of NYU, October 12, 2007;
 - ii. email from Dr. Nurit Kalderon (Kalderon) to DeCoster dated October 16, 2007, about the Questionnaire; and
 - iii. email from Ms. Patricia Kvochak to Kalderon dated October 16, 2007, written in response to Kalderon's email to DeCoster and copied to NYU administration.
2. Notice of Award of grant No. 7R01NS039375-07 dated November 26, 2007 in the amount of \$124,706.00 to NYU issued by Maxine Davis-Vanlue, GMO/NINDS.
3. Email correspondence between DeCoster and NYU administrator, Ms. Kari Hodges (Hodges) dated February 8 – 11, 2008.
4. Email from Hodges to DeCoster dated March 19, 2008.

From: Kvochak, Patricia (NIH/OD) [E] <KvochakP@od31tm1.od.nih.gov>

[[add to contacts](#)]

To: kalderon@spinalcordcure.org

Cc: Hancock, Kathy (NIH/OD) [E] <hancockk@od.nih.gov>, kari.hodges@nyu.edu, aaa225@nyu.edu, osp.agency@nyu.edu, Decoster, Tijuanna (NIH/NINDS) [E] <decostert@ninds.nih.gov>

Date: Tuesday, October 16, 2007 03:28 pm

Subject: RE: RO1 NS393705-06 questionnaire

Attachments: [Text version of this message. \(6KB\)](#)

The questions need to be answered by the grantee institution responsible official. According to the application, it is Mr. Louth. Of course, Ms. Hodges can assist Mr. Louth in responding if he so requests.

Patricia A. Kvochak

Deputy NIH Legal Advisor

NIH Bldg. 31/Room 2B50

31 Center Dr., MSC 2111

Bethesda, MD 20892-2111

(301) 496-6043, ext. 13 (phone)

(301) 402-1034 (fax)

This document is intended only for the use of the party to whom it is addressed and may contain information that is privileged, confidential, and protected from disclosure under applicable law. It should not be disseminated, distributed, or copied to persons not authorized to receive such information.

From: kalderon@spinalcordcure.org [mailto:kalderon@spinalcordcure.org]

Sent: Tuesday, October 16, 2007 2:11 PM

To: Decoster, Tijuanna (NIH/NINDS) [E]

Cc: Hancock, Kathy (NIH/OD) [E]; kari.hodges@nyu.edu; aaa225@nyu.edu; osp.agency@nyu.edu; Kvochak, Patricia (NIH/OD) [E]

Subject: RO1 NS393705-06 questionnaire

Re: Questionnaire regarding NYU's Change of Grantee Institution Application of RO1 NS393705-06

Dear Ms. Decoster,

I write in connection to above mentioned questionnaire that was sent by you on October 12, 2007 to the New York University (NYU) officials. Copy of it is enclosed below.

I believe the answers to your questions are included in the Change of Grantee Institution application that was signed on September 14, 2007 by Mr. Richard Louth the Director of NYU's Sponsored Programs and NYU's Authorized Organizational Representative. The answers/information as these appear in the application are listed/cited below. For ease of review I am attaching an abbreviated version the application.

If you believe that some additional clarifications are needed, to expedite the response and the transfer of the grant, could you please copy your questions to Ms. Kari Hodges, NYU's Projects Officer who handles my application and to me?

Thank you very much for your attention to this matter

Sincerely,
Nurit Kalderon, Ph.D.
Principal Investigator, NS39375

The Answers to the Questions (your questionnaire is enclosed at the bottom):

Answer to Q 1 & 3. The type of my appointment etc. and effective date:

Research Scientist, a member of the laboratory of Dr. Chiye Aoki at the Center of Neural Sciences and employee of NYU; these will be effective after October 1, 2007, the requested starting date of the grant transfer.

These facts are written throughout the application:

in the face page items 3c. & 3e. [Research Scientist at CNS] and 6 [effective starting date of the grant]

in the Budget, page 10, under item Personnel, Salary & Fringe Benefits for the PI; since fringe benefits were requested (27% of salary) this indicates that the PI is a regular employee of NYU.

in the Biographical Sketch, page 16, under Positions and Employment the last position listed, Research Associate Professor, was in effect until July 2007; no position and/or employment is listed thereafter, namely, the position and employment at NYU will start after the grant is transferred to NYU.

in the Progress Report, page 19, in the introduction the nature of relationship between the PI, the project and Dr. Chiye Aoki is explained and the recent data of the collaborative study which was performed at the laboratory of Dr. Aoki are summarized on pages 25-27.

It is stated in the introduction of the Progress Report:

"Period covered: Due to the circumstances related to the NYCPM as grantee institution in which the project and its funding were interrupted and frozen for about 2 years (see Research Plans/Aims Statement, pp. 2-3), the Progress Report below covers the last year at Sloan-Kettering (September 1, 2004 ? August 31, 2005), the original grantee institution. **Even though as of December 1, 2005 I had no access to the funds and/or research facilities the research was continued, albeit at a limited capacity, via a collaboration with Drs. John Glod at UMDNJ and Chiye Aoki at New York University (NYU) which is**

being conducted with their funds at their facilities. Progress in these collaborative studies is also reported below.

Answer to Q 2. The mailing address, Spinal Cord Injury Repair Laboratory, at 28 West 36th Street, Suite 803 etc. **This is the current mailing address of the PI.** It is an office space the PI rented out of her pocket because of the circumstances imposed upon her by the previous grantee NYCPM the details of which **NINDS staff was fully informed of since March 2, 2006 through September 15, 2006.**

in the Checklist, page 29 the F&A Cost rate is at 53.5%, the onsite rate of NYU. NYU has also an offsite F&A Cost rate agreement (@25%). **After review of use of facilities it was determined that the onsite rate is the most appropriate.**

Begin forwarded message:

> From: "Decoster, Tijuanna (NIH/NINDS) [E]" <decostert@ninds.nih.gov>
> To: osp.agency@nyu.edu, tony@cns.nyu.edu
> Cc: "Decoster, Tijuanna (NIH/NINDS) [E]" <decostert@ninds.nih.gov>,
> "Kvochak, Patricia (NIH/OD) [E]" <KvochakP@od31tm1.od.nih.gov>
> Subject: R01NS39375

> Mr. Richard Louth and **Dr. Tony Movshon,**

> **Dr. Nurit Kalderon submitted a change of institution application**
> **from your organization.** The NINDS staff members are reviewing the
> application for a change of institution and have questions that
> need addressing. **Your response is greatly appreciated and will be**
> **helpful in facilitating a decision.**

> 1. What type of an appointment does Dr. Kalderon have with
> your organization? If she is not an employee, do you have a formal
> written agreement with the Principal Investigator, Dr. Kalderon?

> 2. The mailing address, Spinal Cord Injury Repair Laboratory,
> 28 West 36th Street, Suite 803, New York, NY 10018-is this a part
> of the university? If not, please explain.

> 3. What is the nature of the relationship with NYU in order to
> use the facilities in Dr. Aoki's lab?

> Please respond by October 17, 2007. If you have any questions,
> please contact me on 301-496-9231. Thank you for your prompt
> attention to this matter.

- >
- > Tijuanna E. DeCoster, MPA
- > Chief Grants Management Officer
- > Grants Management Branch
- > National Institute of Neurological Disorders and Stroke
- > 6001 Executive Boulevard, Suite 3290, MSC 9537
- > Rockville, MD 20852 (Express Mail)
- > Bethesda, Maryland 20892-9537 (Regular Mail)
- > Branch Phone Number: 301-496-9231
- > Fax Number: 301-402-0219

- >
- >
- >
- >
- >
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Grant Number: 7R01NS039375-07

Principal Investigator(s):
NURIT KALDERON, PHD

Project Title: PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR

NEW YORK UNIVERSITY
OFFICE OF SPONSORED PROGRAMS
15 WASHINGTON PLACE, 1-H
NEW YORK, NY 10003

Budget Period: 12/01/2007 – 11/30/2008

Project Period: 08/22/2000 – 11/30/2008

Dear Business Official:

The National Institutes of Health hereby awards a grant in the amount of \$124,706 (see "Award Calculation" in Section I and "Terms and Conditions" in Section III) to NEW YORK UNIVERSITY in support of the above referenced project. This award is pursuant to the authority of 42 USC 241 42 CFR 52 and is subject to the requirements of this statute and regulation and of other referenced, incorporated or attached terms and conditions.

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

Each publication, press release or other document that cites results from NIH grant-supported research must include an acknowledgment of NIH grant support and disclaimer such as "The project described was supported by Grant Number R01NS039375 from the National Institute Of Neurological Disorders And Stroke. The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institute Of Neurological Disorders And Stroke or the National Institutes of Health."

Award recipients are strongly encouraged to submit to PubMed Central (PMC), upon acceptance for publication, an electronic version of peer-reviewed, original research publications, resulting from research supported in whole or in part, with direct costs from National Institutes of Health. The author's final manuscript is defined as the final version accepted for journal publication, and includes all modifications from the publishing peer review process. For additional information, please visit <http://publicaccess.nih.gov/>.

If you have any questions about this award, please contact the individual(s) referenced in Section IV.

Sincerely yours,

Maxine Davis-Vanlue
Grants Management Officer
NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Additional information follows

SECTION I – AWARD DATA – 7R01NS039375-07**Award Calculation (U.S. Dollars)**

Federal Direct Costs	\$81,242
Federal F&A Costs	\$43,464
Approved Budget	\$124,706
Federal Share	\$124,706
TOTAL FEDERAL AWARD AMOUNT	\$124,706

AMOUNT OF THIS ACTION (FEDERAL SHARE)	\$124,706
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SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
7	\$124,706	\$124,706

Fiscal Information:

CFDA Number:	93.853
EIN:	1135562308A1
Document Number:	R1NS39375C
Fiscal Year:	2004

IC	CAN	2004
NS	8426310	\$124,706

NIH Administrative Data:**PCC:** PANCRJRP / **OC:** 414E / **Processed:** VANLUEM 11/23/2007

SECTION II – PAYMENT/HOTLINE INFORMATION – 7R01NS039375-07

For payment and HHS Office of Inspector General Hotline information, see the NIH Home Page at <http://grants.nih.gov/grants/policy/awardconditions.htm>

SECTION III – TERMS AND CONDITIONS – 7R01NS039375-07

This award is based on the application submitted to, and as approved by, NIH on the above-titled project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- The grant program legislation and program regulation cited in this Notice of Award.
- The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- 45 CFR Part 74 or 45 CFR Part 92 as applicable.
- The NIH Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.
- This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

(See NIH Home Page at 'http://grants.nih.gov/grants/policy/awardconditions.htm' for certain references cited above.)

An unobligated balance may be carried over into the next budget period without Grants Management Officer prior approval.

This grant is subject to Streamlined Noncompeting Award Procedures (SNAP).

Treatment of Program Income:

Additional Costs

SECTION IV – NS Special Terms and Conditions – 7R01NS039375-07

This award reflects an approved change of institution for the above-named project. This award is issued using funds released by the transfer of this award from the New York College of Podiatric Medicine on March 30, 2006. Funds awarded reflect an estimated balance from the prior institution. If the balance has been overestimated, it may be necessary to reduce the amount of this award.

This award reflects a partial year transfer of funds due to a change of institution. The allocation of unobligated funds between Direct Cost and F&A Cost categories has been adjusted to reflect the current F&A rate at the new institution. Total cost commitments for future years have been adjusted to reflect the new F&A rate.

The fastest method to apply for and receive future years of support is to submit non-competing applications via the eRA Commons (SNAP only). To register to use the Commons go to <https://commons.era.nih.gov/commons/>. Questions regarding the Commons should be addressed to Commons Support at 1-866-504-9552 or commons@od.nih.gov.

Alternatively, hardcopy non-competing applications may be submitted to the centralized mailing address:

Division of Extramural Activities Support, OER
National Institutes of Health
6705 Rockledge Drive, Room 2207, MSC 7987
Bethesda, MD 20892-7987 (for regular or US Postal Service Express mail)
Bethesda, MD 20817 (for other courier/express mail delivery only)

Other documents applicable to this grant should be faxed to (301) 451-5635 or mailed to:

Grants Management Branch
National Institutes of Neurological Disorders and Stroke
6001 Executive Boulevard, Suite 3290, MSC 9537
Rockville, MD 20852 (Express Mail)
Bethesda, MD 20892-9537 (Regular Mail)

For additional information, you may access the NIH home page at <http://www.nih.gov/> and the NINDS Home Page at <http://www.ninds.nih.gov>

STAFF CONTACTS

The Grants Management Specialist is responsible for the negotiation, award and administration of this project and for interpretation of Grants Administration policies and provisions. The Program Official is responsible for the scientific, programmatic and technical aspects of this project. These individuals work together in overall project administration. Prior approval requests (signed by an Authorized Organizational Representative) should be submitted in writing to the Grants Management Specialist. Requests may be made via e-mail.

Grants Management Specialist: Tijuanna Decoster
Email: decostert@mail.nih.gov **Phone:** 301-496-9231 **Fax:** 301-402-0219

Program Official: Joseph J. Pancrazio
Email: pancrazj@ninds.nih.gov **Phone:** 301-496-1447 **Fax:** 301-496-1080

SPREADSHEET SUMMARY

GRANT NUMBER: 7R01NS039375-07

INSTITUTION: NEW YORK UNIVERSITY

<i>Budget</i>	<i>Year 7</i>
TOTAL FEDERAL DC	\$81,242
TOTAL FEDERAL F&A	\$43,464
TOTAL COST	\$124,706

<i>Facilities and Administrative Costs</i>	<i>Year 7</i>
--	---------------

F&A Cost Rate 1	53.5%
F&A Cost Base 1	\$81,242
F&A Costs 1	\$43,464

Decoster, Tijuanna (NIH/NINDS) [E]

From: Decoster, Tijuanna (NIH/NINDS) [E]
Sent: Monday, February 11, 2008 9:19 AM
To: 'Kari Hodges'; Amala Ankolekar; J Anthony Movshon
Subject: RE: 7R01NS039375-07 REVISED

Ms. Hodges,

The grant was awarded based on what was relinquished by the old institution. NINDS cannot award more than is relinquished by the previous institution regardless of what is requested in the application. We have not received any revisions since the grant was awarded to your institution.

If the rebudgeting is more than 25%, then prior approval is needed. I don't anticipate any restoration of the funds--the grant was awarded based on what relinquished by the previous institution.

Tia

-----Original Message-----

From: Kari Hodges [mailto:kari.hodges@nyu.edu]
Sent: Friday, February 08, 2008 12:48 PM
To: Decoster, Tijuanna (NIH/NINDS) [E]; Amala Ankolekar; J Anthony Movshon
Subject: 7R01NS039375-07 REVISED

Hello Ms. Decoster,

I am writing to inquire about the above mentioned grant. We recently received the NoGA for the above mentioned transfer grant from the College of Podiatric Medicine for PI Nurit Kalderon. However, the award amount is less than the amount requested in the transfer application.

The PI has indicated that a revised FSR was submitted by the previous institution, releasing more funds to NIH for this project and restoring funding to the initial amount requested. Additionally, under the reduced budget, the PI is considering various rebudgeting options. Is reducing PI effort an option for this grant, and if so how should the PI go about this? If funding will be restored later-- how should the PI proceed.

Many Thanks,

Kari Hodges

--
Kari Alexandrë Hodges
Projects Officer
Office of Sponsored Research
15 Washington Pl., 1-H
New York, New York 10003
kari.hodges@nyu.edu

Decoster, Tijuanna (NIH/NINDS) [E]

From: Kari Hodges [kari.hodges@nyu.edu]
Sent: Wednesday, March 19, 2008 3:17 PM
To: Decoster, Tijuanna (NIH/NINDS) [E]
Cc: Amala Ankolekar
Subject: 7r01ns039375-07, Kalderon, Nurit

Hello Tijuanna,

I am writing about the above referenced grant under PI Nurit Kalderon titled "Pre-Clinical Studies of Spinal Cord Injury Repair." Although this grant was awarded to NYU in January 2008, no funds have been drawn down. NYU has decided NOT to accept the award and is looking for information on, procedurally, the best way to return these funds to the NIH. Is there any information the University is required to provide to the Grants Management Officer or Program Officer? Please let me know.

Thank you,

Kari

--

Kari Alexandr  Hodges
Projects Officer
Office of Sponsored Research
665 Broadway, Suite 801
New York, New York 10012-2331

kari.hodges@nyu.edu
p:212-998-2379

EXHIBITS

Open Letter From
A Whistleblower
To NIH Director

EXHIBIT I

Request of the Record, the Fraudulent Notices of Award & the NIH Privacy Act Officer assuming false NIH official identity

1. Request to access the records pertaining to R01NS39375 grant dated March 24, 2008, pp. 1 & 7–9.
2. List of fraudulent Notices of Award and Relinquishing Statements that should be amended/revised, annulled or quashed from the R01NS39375 grant's record.
3. Declaration* of Ms. Karen Plá dated June 11, 2009 which submitted to the USDC, SDNY, in the action *Kalderon v. Finkelstein et al.*, 08-cv-09440, in support of defendants' motion to dismiss Kalderon's complaint.

* Note, ¶¶ 2, 13, 15–21 of this declaration. Plá, the NIH Privacy Act Officer, in 'reviewing' the PI's requests to amend have assumed false NIH official identity in violation of 18 U.S.C. § 912 and violated the provisions of the Trade Secrets Act, 18 U.S.C. § 1905, and of the Privacy Act 5 18 U.S.C. § 552a (i)(3). Statutorily, review of Requests to Amend and Access should be perform by the System Manager of the record, here by DeCoster, Dr. Finkelstein or by the Compliance & Oversight Division at OPERA.

Nurit Kalderon, Ph.D.
Principal Investigator, RO1 NS39375
P.O. Box 16
New York, New York 10044

March 24, 2008

By Email & FedEx

Ms. Karen M. Plá
NIH Privacy Act Officer
6011 Executive Boulevard
Room 601, MSC 7669
Rockville, Maryland 20892

REQUEST to ACCESS the RECORDS PERTAINING TO RO1 NS39375 GRANT
AS SET FORTH UNDER 5 U.S.C. § 552a (d)(1) and 45 CFR § 5b.5

Dear Ms. Plá:

I am the Principal Investigator (PI) of the RO1 NS39375 grant on the research project entitled PRE-CLINICAL STUDIES OF SPINAL-CORD INJURY REPAIR. I am requesting here, as forth under 5 U.S.C. § 552a (d)(1) and 45 CFR § 5b.5, to have access to my records pertaining to all aspects of my RO1 NS39375 grant as specified below and that copies be made of all these records.

Before specifying which records I would like to have access to and copies made of I would like to bring to your attention and put on record that since November 10, 2005 I have made 4 requests to access my record, two of these were under court subpoena. However, in a systematic manner the NINDS staff maintaining these records either did not submit such or submitted to me only very selective and partial record. NINDS is withholding and/or preventing access to major portions of my record; the record which incriminates NINDS/NIH staff in illicit activities such as, helping the now defunct grantee institution, the New York College of Podiatric Medicine (NYCPM), to defraud the NIH and/or acting with intent to injure the PI and her funded research project to cure paralysis due to spinal cord injury. This is being demonstrated in a separate action under the Privacy Act, in my requests to amend the record which were and are being submitted since November 27, 2007.

At present I have about 200 pages consisting of several dozens emails of communication between NYCPM and NINDS staff with respect to the PI and my RO1 NS39375 grant written during

Request to Access Record
5 U.S.C. § 552a (d)(1); 45 CFR § 5b.5
Nurit Kalderon, Ph.D.
Principal Investigator, RO1 NS39375

***The Specifics of the Requested Access to Records
Related to my RO1 NS39375 Grant***

Exclusions: Before specifying copies of which records I am requesting, to prevent any misunderstanding: nothing in my requests below should be construed as requesting access to and/or copies of any of the Summary Statements and/or any reviews of competitive grant application ever produced by any of the NIH study sections for any of my grant applications, these are my confidential protected documents and no access is allowed to them unless prior approval will be obtained from me in writing.

Request to Access Record
5 U.S.C. § 552a (d)(1); 45 CFR § 5b.5
Nurit Kalderon, Ph.D.
Principal Investigator, RO1 NS39375

22. The records requested means as specified by the following regulations:

“45 C.F.R. § 5.5 Definitions.

Records means any handwritten, typed, or printed documents (such as memoranda, books, brochures, studies, writings, drafts, letters, transcripts, and minutes) and documentary material in other forms (such as punchcards; magnetic tapes, cards, or discs; paper tapes; audio or video recordings; maps; photographs; slides; microfilm; and motion pictures). “

23. Accordingly I request all documents, e-mails, communications, letters, memoranda, minutes, financial records, audit documents, agreements, contracts, relinquishing statement, Financial Status Reports, all drafts of said documents, and all other forms of written communications and material concerning my R01 NS39375 grant from May 1, 2005 until the present generated within the entire NIH, including but not limited to the NINDS, Office of the NIH Legal Advisor, Office of Financial Management, Office of Extramural Research. [May 1, 2005: the date preliminary proceedings to the transfer my RO1 NS39375 grant to NYCPM were started].

24. In particular all emails and papers generated and/or maintained by the individual NIH employees listed below who were, have been and are participating lawfully and/or unlawfully in discussing and/or determining my rights, benefits, privileges with respect to my R01 NS39375 grant, my funded research project:

Joseph Pancrazio, Naomi Kleitman, Kimberly Campbell, Gavin Wilkom, Stephanie Fertig, Michael Loewe, Eddie Myrbeck, Kenny Bond, Maxine Davis-Vanlue, Patricia Kvochak, Tijuana DeCoster and Robert Finkelstein,

from January 1, 2005 to the present to the extent not already provided by NIH.

25. If any documents are withheld due to privilege please provide a privilege log with the explanation for such.

In conclusion, since my access to these records was illegally prevented for more than a year, my Request for Record Access as specified here should be provided by you in an expedited manner.

Request to Access Record
5 U.S.C. § 552a (d)(1); 45 CFR § 5b.5
Nurit Kalderon, Ph.D.
Principal Investigator, RO1 NS39375

Thank you for your compliance.

Truly yours,

A handwritten signature in cursive script that reads "Nurit Kalderon".

Nurit Kalderon, Ph.D.
Principal Investigator
P.O. Box 16
New York, NY 10044
Phone: (212) 564-9498

cc: Dr. Robert Finkelstein
Ms. Barbara M McGarey
Dr. Joe Pancrazio
Ms. Tijuana DeCoster
Ms. Patricia Kvochak

Open Letter From
A Whistleblower
To NIH Director
List of Fraudulent NGAs

List of Fraudulent Notices of Award and Relinquishing Statements that Should be Amended/Revised, Annulled or Quashed from the R01NS39375 Record

1. Relinquishing Statement dated May 1, 2006, *see* **Exhibit C**.
2. Notice of Grant Award (NGA) dated June 28, 2006.
3. NGA dated November 26, 2007, *see* **Exhibit H**.
4. NGA dated January 9, 2008.
5. NGA dated April 18, 2008.
6. Relinquishing Statement of NYU dated May 8, 2008.
7. NGA dated July 23, 2008.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NURIT KALDERON, Ph.D.,

Plaintiff,

-against-

DIRECTOR, ROBERT FINKELSTEIN, Ph.D.,
DIVISION OF EXTRAMURAL RESEARCH,
DISORDERS AND STROKE, in his individual
and official capacities,

DIVISION OF EXTRAMURAL RESEARCH,
NINDS,

DER/NINDS CHIEF GRANTS MANAGEMENT
OFFICER, TIJUANA E. DECOSTER, in her
individual and official capacities,

NATIONAL INSTITUTES OF HEALTH
EMPLOYEE EDWARD D. MYRBECK, in
his individual and official capacities,

NIH/NINDS EMPLOYEE JOSEPH J.
PANCRAZIO, Ph.D., in his individual and
official capacities,

NIH/NINDS EMPLOYEE MAXINE
DAVIS-VANLUE, in her individual and official
capacities,

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, OFFICE OF THE
GENERAL COUNSEL, EMPLOYEE PATRICIA
A. KVOCHAK, in her individual and official
capacities,

DHHS, FOI/PRIVACY ACTS DIVISION
EMPLOYEE KAREN PLÁ, in her individual
and official capacities,

Defendants.
-----X

Civil Action No. 08-09440(RJS)

**DECLARATION OF
KAREN PLÁ**

DECLARATION OF KAREN PLÁ

I, Karen Plá, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the National Institutes of Health ("NIH") Privacy Act Officer. I have held this position since March 29, 2006. Unless otherwise indicated, the statements in this declaration are based on my personal knowledge and information obtained by me in the course of my official duties.
2. My duties as NIH Privacy Act Officer include responding to requests from individuals under the Privacy Act, 5 U.S.C. § 552a, as amended, (a) for copies of NIH records, and (b) to amend NIH records. A description of these duties can also be found on the NIH's website at <http://oma.od.nih.gov/ms/privacy/privacyact.html#rolesandresponsibilities>.
3. In addition to being the NIH Privacy Act Officer, I have been the Senior Official for Privacy at the NIH since April 13, 2006. My duties as Senior Official for Privacy include coordinating NIH privacy-related activities, developing NIH privacy policy and procedures, and developing NIH privacy awareness training and education. See also <http://oma.od.nih.gov/ms/privacy/index.html>.
4. The Privacy Act requires each agency that maintains a system of records to, upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit the individual to review the record and have a copy made of all or any portion thereof, and to permit the individual to request amendment of a record pertaining to him. See 5 U.S.C. § 522a(d)(1) & (2).

5. A "system of records" is defined as a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. See 5 U.S.C. § 522a(a).
6. The Privacy Act requires that each agency publish in the Federal Register a notice of the existence and character of the system of records, or system of records notice ("SORN"), with respect to records that the agency maintains under the Privacy Act. See 5 U.S.C. § 522a(e)(4). Among other things, the SORN must identify the categories of individuals on whom records are maintained and the categories of records maintained in the system. Id.
7. A copy of the SORNs that are commonly used in the NIH may be found on NIH's website at <http://oma.od.nih.gov/ms/privacy/pa-files/read02systems.htm>. Since my duties as NIH Privacy Act Officer include responding to Privacy Act requests, I am required to be familiar with these SORNs. In fact, one of my duties as Privacy Officer is to review and update, as necessary, SORNs issued by the NIH, and to prepare any revised SORNs for publication in the Federal Register.

Dr. Kalderon's Request for Access Under the Privacy Act

8. By letter dated March 24, 2008, which plaintiff Dr. Nurit Kalderon forwarded to me by email dated March 25, 2008, Dr. Kalderon submitted a "Request to Access the Records Pertaining to R01 NS39375 Grant Under 5 U.S.C. § 552a(d)(1) and 45 U.S.C. § 5b.5" ("Request to Access Records"). The Request to Access Records was addressed to me. A true copy of the request is annexed as Exhibit 1.

9. In reviewing Dr. Kalderon's request for records, I determined that the applicable SORN was 09-25-0036, titled "Extramural Awards and Chartered Advisory Committees (IMPAC 2), Contact Information (DCIS), and Cooperative Agreement and Information, HHS/NIH." A true copy of the SORN 09-25-0036 is attached as Exhibit 2, and may also be accessed at <http://oma.od.nih.gov/ms/privacy/pa-files/0036.htm>.)
10. The SORN 09-25-0036 identifies the categories of records in the system to be "funding applications, awards, associated records, trainee appointments, current and historical information pertaining to chartered advisory committees, and past performance information pertaining to contractors." Records in the system are stored by "name, application, grant or contract ID number, and contractor tax ID number," and records are "retrieved by name, application, grant or contract ID number, and contractor tax ID number."
11. I determined that the grant file with respect to the R01 NS39375, of which Dr. Kalderon was the Principal Investigator, fell within the SORN's categories of records. The grant file is retrieved by Dr. Kalderon's name or her personal identifying number, which is the Principal Investigator number. By Principal Investigator number, I mean the grant number R01 NS39375.
12. I obtained copies of the grant file from Tijuanna DeCoster of the National Institute of Neurological Disorders and Stroke ("NINDS."). I informed Ms. DeCoster that it was not necessary to provide me with duplicate copies of Dr. Kalderon's requests for documents or amendment of records, or of my responses to these requests, since Dr. Kalderon was already in possession of these

documents. I confirmed with Ms. DeCoster that other than the grant file that she provided to me, NINDS does not maintain any other category of records identified in the SORN 09-25-0036 that is retrieved by Dr. Kalderon's name or by the grant number R01 NS39375.

13. I sent a copy of the grant file provided by Ms. DeCoster to Dr. Kalderon on July 8, 2008, and retained a copy for my records. I included with the grant file a cover letter dated July 8, 2008, addressed to Dr. Kalderon. A true copy of my July 8, 2008 cover letter is annexed as Exhibit 3.
14. It is my understanding that internal emails on personal computers are not a category of records within the SORN, unless they are made a part of a category of records, such as the grant file. The grant file I provided to Dr. Kalderon did contain some emails.

Dr. Kalderon's Five Requests for Amendment Under the Privacy Act

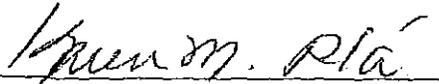
15. By letter and fax dated November 27, 2007, Dr. Kalderon submitted a "Request to Amend my Record as Set forth under 5 USC § 522a(d)(2) Request for Record Amendment #1" ("Request for Record Amendment #1"). The request was sent to Tijuanna DeCoster of NINDS. The request was referred to Debbie Jarman, then the Privacy Act Coordinator at NINDS. (Each of the Institutes at the NIH has a Privacy Act Coordinator who helps coordinate requests under the Privacy Act made to the Institutes. See also <http://oma.od.nih.gov/ms/privacy/privacyact.html#rolesandresponsibilities>). Ms. Jarman requested that I assist her in responding to Dr. Kalderon's request. A true copy of Request for Record Amendment #1 is annexed as Exhibit 4.

16. By letter dated December 14, 2007, I responded to Dr. Kalderon's Request for Record Amendment #1. A true copy of my December 14, 2007 letter is annexed as Exhibit 5.
17. On March 19, 2008, Dr. Kalderon submitted a "Request #2 for Record Amendment as Set Forth Under 5 USC § 522a(d)(2)" ("Request #2 for Record Amendment"). Ms. DeCoster forwarded the request to me for response. A true copy of "Request #2 for Record Amendment" is annexed as Exhibit 6.
18. On March 31, 2008, Dr. Kalderon submitted a "Request #3 for Record Amendment as Set Forth Under 5 USC § 522a(d)(2)" ("Request #3 for Record Amendment.") The Request #3 for Record Amendment was sent to Ms. DeCoster, who forwarded the request to me for response. A true copy of Request #3 for Record Amendment is annexed as Exhibit 7.
19. On April 11, 2008, Dr. Kalderon submitted a "Request #4 for Record Amendment as Set Forth Under 5 USC § 522a(d)(2)" ("Request #4 for Record Amendment"), addressed to Dr. Finkelstein and to Joseph Ellis, the Director of the Office of Policy for Extramural Research Administration. Dr. Finkelstein forwarded the request to me for response. A true copy of Request #4 for Record Amendment is annexed as Exhibit 8.
20. On July 1, 2008, Dr. Kalderon submitted a "Request #7 for Record Amendment as Set Forth Under 5 USC § 522a(d)(2)," addressed to Dr. Finkelstein and to Barbara McGarey of the NIH Legal Advisor Office. Although the request was entitled "Request #7 for Record Amendment," it appears that this was Dr. Kalderon's fifth request for record amendment. Dr. Finkelstein forwarded a copy

of the request for record amendment, dated July 1, 2008, to me for response. A true copy of Dr. Kalderon's fifth request for amendment of her record (entitled "Request #7 for Record Amendment") is annexed as Exhibit 9.

21. In addition to responding to Dr. Kalderon's request for access to her record, my July 8, 2008 letter (Exhibit 3 to this Declaration) also addressed Dr. Kalderon's requests to amend records. I reiterated the statement I made in my letter of December 14, 2007, that the NIH could not amend the NYCPM Relinquishing Statement, because that document was not authored by the agency. In addition, I noted that the NIH had complied with Dr. Kalderon's request, dated April 11, 2008, to make the computational changes to the November 28, 2008 NGA to reflect to correct amount that had been relinquished by NYCPM and by Sloan-Kettering.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


Karen Plá

Executed on: June 11, 2009
Bethesda, Maryland