



THURBERT E. BAKER
ATTORNEY GENERAL

Department of Law
State of Georgia

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

Writer's Direct Dial:
404-656-3300
Fax 404-651-7676

June 17, 1999

Dr. Stephen R. Portch
Chancellor
Board of Regents of the University System of Georgia
Room 7025
270 Washington Street, SW
Atlanta, GA 30334

RE: Review of Regents' Internal Audit of Certain Transactions at the School of
Mathematics, Georgia Institute of Technology

Dear Chancellor Portch:

On February 19, 1999, the Organization and Law Committee of the Board of Regents referred to this office a draft audit report prepared by the Regents' Internal Audit Department. The report, entitled "Investigation of Alleged Improprieties in the School of Math," reviewed the propriety of numerous expenses relating to trips taken by Professor Shui-Nee Chow, who was at the time chairman of the School of Mathematics at Georgia Tech. According to the report, the auditors examined 81 separate trips taken by Dr. Chow. In addition, the audit examined the propriety of Dr. Chow's deposit of certain funds from Brigham Young University into the accounts of the Georgia Tech Foundation.

This office reviewed questionable travel expenses submitted for reimbursement by Dr. Chow on trips that he made to Edmonton, Alberta, Canada in August, 1995; Taiwan in May, June and July, 1996; Utah in May of 1997; and Seattle and White Horse, Yukon in June and July of 1997. In general, our review indicates that Dr. Chow's travel reimbursements included expenses which were not related to legitimate Georgia Tech travel or which were otherwise not appropriate for reimbursement.

In the case of the Edmonton, Alberta trip, Dr. Chow sought and obtained reimbursement for four nights' lodging at various locations in Alberta and British Columbia which were unrelated to the workshop he had been attending at the University of Alberta. These expenses were reimbursed to Dr. Chow from institutional funds, allegedly after the Dean of the College of Sciences at Tech had approved them.

June 17, 1999

Page 2

With respect to the trip to Taiwan, Dr. Chow was on leave from Georgia Tech in an "absence from campus" status. Dr. Chow obtained reimbursement for meals for 86 days at \$35 per day while in Taiwan doing research. The Dean of the College of Sciences approved this reimbursement. Foundation funds were used to pay these expenses.

The "absence from campus" status has been described by Regents auditors as inconsistent with Regents Policy, Section 803.15, which permits the president of an institution, with the approval of the Chancellor and the Board, to grant leaves of absence, either with or without pay. Where the leave of absence is for one academic quarter or less, the leave may be granted by the president with notification to the Chancellor. Apparently, the practice of permitting professors to be "absent from campus" is unique to the College of Sciences at Tech, and particularly prevalent in the School of Mathematics. Regents auditors have classified the "absence from campus" status as essentially paid leave, even though Regents policy makes no provision for annual leave for faculty members on a nine-month academic contract. Dr. Chow has stated that he did not believe he was in Taiwan on a leave of absence without pay, but was rather merely away from the institution and his administrative duties so that he could conduct research.

In May 1997, Dr. Chow traveled to Utah to visit Brigham Young University and to attend a meeting of the Society of Industrial and Applied Mathematics (SIAM) at Snowbird, Utah. The BYU visit was from May 13, 1997 to May 16, 1997. The SIAM meeting began on May 18, 1997, and ran through May 22. For the nights of May 17, 18, and 19, Dr. Chow stayed at motels in Bryce, Green River, and Price, Utah. He finally arrived at Snowbird on May 20, 1997. Dr. Chow sought and obtained reimbursement for the nights of May 17, 18 and 19 from the foundation, even though it is quite apparent that this travel was personal in nature. Dr. Chow has alleged that he obtained approval for this reimbursement with the foundation and the Dean of the College of Sciences after the fact.

Dr. Chow was invited to be a principal speaker at the International Conference on Nonlinear Phenomena in Dynamical Systems and Variational Problems which was held in White Horse, Yukon, between July 2, 1997, and July 6, 1997. On July 15, 1997, Dr. Chow submitted a reimbursement request to the Tech Foundation totaling \$4,013 covering a period beginning June 25, 1997, and ending July 12, 1997. For this period, Dr. Chow requested lodging reimbursement totaling \$1,296 as follows:

Three nights in Seattle	June 25, 26, 27
One night in Cache Creek, B.C.	June 28
One night in Pink Mt. B.C.	June 29
One night in Watson Lake, Yukon	June 30
Two nights on the Skagway to Prince Rupert Ferry	July 5 and 6

June 17, 1999

Page 3

One night in Williams Lake, B.C.	July 7
Four nights in Seattle	July 8, 9, 10, and 11

Dr. Chow also received reimbursement for meals for the entire period, as well as \$762 for a rental car, including approximately \$30 for a front-end alignment.

There is no documented prior approval for this trip, although the Associate Dean of the College of Sciences approved the reimbursement after the fact. Dr. Chow has stated that the time he spent in Seattle was for a visit with professional colleagues at the University of Washington.

Finally, this office reviewed Dr. Chow's direction that certain funds from Brigham Young University be deposited in a Tech Foundation account. In 1992, a professor in the School of Mathematics conducted special studies at BYU. Originally, the professor's salary was to be paid by BYU, but it was learned that his visa limited his right to work to Georgia Tech. Consequently, it was agreed that his salary would continue to be paid by Tech. Subsequently, however, BYU reimbursed the School of Mathematics \$44,480 for the visiting professor's salary. Dr. Chow directed the payment be made to the foundation, stating that since there was no formal agreement between Georgia Tech and BYU, it would be appropriate for the funds to be deposited with the foundation. The foundation has described the payment as a "contribution." The Regents auditors have conversely determined that the payment should have been made to the institution since it was a reimbursement for the visiting professor's salary.

On March 3, 1999, President Wayne Clough issued a written reprimand to Dr. Chow and demanded repayment of \$6,522 found by the audit to have been erroneously claimed by Dr. Chow for the four trips described above. Dr. Chow has agreed to make repayment. He is now on assignment in Singapore, being paid half-salary by Georgia Tech.

I have determined that no criminal action against Dr. Chow would be appropriate. Although Dr. Chow clearly took advantage of opportunities to combine official travel with personal tourism, I do not believe there is sufficient evidence of criminal intent to warrant further action by this office. It is my belief that Dr. Chow's travel decisions and expenses were not subjected to an appropriate level of scrutiny in the institutional approval process. Indeed, this process appears to have been perfunctory at best. Yet, the approvals that he received, either before or after his travel, would make a criminal prosecution impracticable, even in a strong case.

I am also informed that ranking members of the institution's management do not believe Dr. Chow formed a criminal intent to defraud the institution or the foundation, but that he honestly believed that the reimbursements were appropriate. This points up a need on the part of the institution to better educate its personnel on what expenses are permissible, and that personal and business expenses must scrupulously be kept separated.

June 17, 1999

Page 4

The deposit of the BYU funds in the Georgia Tech Foundation accounts indicates a need for enhanced control in the handling of funds coming into the various units of the institution. It does not appear that Dr. Chow's decision was guided by institutional policy. Rather, my impression is that Dr. Chow was left to dispose of the funds as his judgment dictated with little, if any, oversight at the institutional level.

Furthermore, I would like to draw your attention to another problem with the BYU matter. The visiting professor was in the United States on a visa that permitted him to work at Georgia Tech. He went to BYU for a period of special studies. During this time Georgia Tech paid his salary. After his term at BYU was finished, BYU sent the equivalent of his salary to the School of Mathematics. If this was a preconceived agreement, it can be argued that the arrangement was designed to circumvent the terms of the professor's visa. Thus, I would caution that such might be considered a violation of a condition of entry, which at least theoretically might result in deportation. 8 USC Section 1227.

In conclusion, I am convinced the bulk of the problems experienced by Georgia Tech in this matter are rooted in a lack of institutional control over travel decisions and expense reimbursement procedures. In addition, the BYU payment evinces a palpable need to further define and distinguish the relative positions of the institution and the Georgia Tech Foundation in matters relating to finance.

I hope you will find the foregoing helpful. Of course, should you have any questions or comments, please let me know.

Sincerely,



Thurbert E. Baker
Attorney General

cc: G. Wayne Clough, President, Georgia Institute of Technology