

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

No. 19 CR 1439 WJ

v.

TURAB LOOKMAN,

Defendant.

FIRST SET OF OBJECTIONS TO THE PRESENTENCE REPORT

The Defendant Turab Lookman, by and through his attorneys, Paul M. Linnenburger and Marc M. Lowry of Rothstein Donatelli, LLP, pursuant to U.S. Const. amend. V; U.S. Const. amend. VI; U.S. Const. amend. VIII; U.S. Const. amend. XIV; 18 U.S.C. §3552; 18 U.S.C. §3553; 18 U.S.C. §3661; and Fed. R. Crim. Pr. 32, hereby submits the following Objections to the Presentence Investigation Report in this matter (hereinafter “PSR”) to address objections other than the misuse of an improper Guideline and departure and variance issues, which will be addressed in a separate filing:

Introduction and Background

On May 22, 2019, Dr. Turab Lookman was charged via Indictment with three counts of false statements in violation of 18 U.S.C. § 1001. (Doc. 2). On January 24, 2020, Dr. Lookman entered into a plea agreement in which he agreed to enter a plea of guilty to Count 2 of the Indictment concerning an answer provided to a Los Alamos National Laboratory Officer on or about June 6, 2018. (Doc. 31). On April 3, 2020, an initial proposed Presentence Investigation Report was issued. (Doc. 33).

On April 17, 2020, Dr. Lookman, through counsel, provided the United States Probation Office with initial objections to the April 3, 2020, PSR. Said objections set forth requests for clarification as to particular offense conduct, clarified issues related to Dr. Lookman's financial status, and objected to the proposed United States Sentencing Guideline utilized to calculate the recommended Guideline sentencing range.

Sentencing matters in this case became delayed, in part, due to the COVID pandemic. In late June 2020, defense counsel contacted the United States Probation Office to inquire about a response to the April 17, 2020, objections letter and a final proposed PSR. Through communications with the Probation Office, it was determined that the defense's primary objections were best suited for the formal objections process and consideration by this Court. In accordance with the request of the Probation Office, counsel thus submits these objections (and corresponding Second Set of Objections to the Presentence Report Concerning Improper Use of U.S.S.G. §2J1.3) for Government's formal response and the Court's consideration.

Objections to Presentence Report

I. Objections Related to Offense Conduct

Objection No. 1.1.¹ The defense objects to Paragraph 10 to the extent it does not recognize that Dr. Lookman is no longer employed by or otherwise affiliated with Los Alamos National Laboratories (LANL). Dr. Lookman's employment was terminated just after charges were filed in this matter.

Objection No. 1.2. The defense objects to Paragraph 10 to the extent that it erroneously suggests that Dr. Lookman's scientific work through LANL was subject to classification. While

¹ For purposes of this pleading, objections to the Presentence Investigation Report will be set forth in numerical order, beginning with 1.1 (signifying the first objection of the first set of objections) and moving to 1.2, 1.3, etc.

Dr. Lookman held a Q clearance, his work was public and “outside the fence.” Dr. Lookman’s scientific work was regularly in collaboration with others across the globe (with the blessing of LANL). This is an important omission because the fact that Dr. Lookman’s work was regularly published in publicly available journals places the nature and circumstances of the offense in proper context.

Objection 1.3. The defense objects to Paragraph 11 of the PSR and its characterization of the Thousand Talents Program in terms that suggest the scientific community had accepted it as some form of espionage or unlawful transfer of intellectual property. While the defense acknowledges that amidst the current contentious climate between the United States and China the program has come under intense scrutiny in the United States, this was not always the case, particularly when developing relations between China and the United States became a priority at first under the current administration. Moreover, the defense notes that many within the broader scientific community, particularly throughout 2017 and 2018, viewed the Thousand Talents Program as an attempt to foster scientific advancement, collaboration and cooperation with the scientific community of China (including Chinese ex-pats). For instance, the Career Guide contained within *Nature*, 552, S8 (2018) published a guide on January 17, 2018, outlining how the program had recruited 7,000 scientists and assisted in removing administrative hurdles to collaborating in China (*available at* <https://www.nature.com/articles/d41586-018-00538-z>).

Other publications throughout 2017 and 2018 described the program without mentioning any perceived illicit consideration. As an example from the global community, the Netherlands Enterprise Agency (Rijksdienst voor Ondernemend), a governmental agency, published a discussion by David Bekkers entitled “China’s Pursuit of Overseas Brains: The 1,000 Talents Policy”, *available at* <https://www.rvo.nl/sites/default/files/2017/01/1000-Talents-Policy->

Article.pdf. The Netherlands agency noted the potential advantage of Dutch scientific involvement in the program, stating the connections could “promote Sino-Dutch research collaboration.” The same was true for scientists across the globe, including from the United States, where thousands participated in the program since its inception, only recently becoming targets of criminal prosecutions in relation thereto. (Even recently, John Demers, Assistant Attorney General for National Security, has noted that association with the program “is not illegal.”)

Contrary to the suggestion of Paragraph 11, Dr. Lookman was not seeking to “transfer intellectual property to China.” There have been no allegations that he provided any information to China that was not public or otherwise involved collaboration with Chinese scientists to begin with.

Objection 1.4. The defense objects to Paragraph 11 and the omission that Xue Dezhen was a former researcher *with* Dr. Lookman at LANL. Paragraph 11 should include accurate information that Xue collaborated with Dr. Lookman on public research projects geared towards publications to be available to the broader scientific community that were not based in classified knowledge.

Objection 1.5. The defense further objects to Paragraph 11 and its omission of relevant information concerning the application at issue in this matter. Dr. Lookman is not disputing that he cooperated in the application process towards being nominated as a Fellow through the Thousand Talents Program. However, Paragraph 11 should include further information clarifying that the process was driven by individuals in China rather than Dr. Lookman. Individuals in China provided Dr. Lookman with a template and Dr. Lookman provided information requested therein. Individuals in China then completed the application and submitted it on his behalf. This process is in line with public statements concerning application to the program and logistics of the same. *See e.g. Jia, Hepeng, China’s plan to recruit talented researchers, Nature, 553, S8 (2018) (outlining*

that formal application only proceeds through scientific collaborators within China itself).

Objection 1.6. The defense objects to Paragraphs 11 and 12 to the extent that they omit material information that is necessary to clarify the background, circumstances and nature of the offense. Initially, the defense obtained paperwork from Professor Xue via electronic communication that appears to show an official Chinese governmental stamp on a final application to the program. (A copy is attached hereto as Exhibit A). That document shows that Dr. Lookman's final application was to be nominated as a Fellow, rather than a more formal full-time salaried position.

The defense acknowledges that the primary benefit of coordination with the Thousand Talents Program was the potential for a visa that permitted longer-term ease of travel to China and deeper collaboration with existing relationships – relationships known to LANL and including former LANL scientists – on public projects for future publication. (Dr. Lookman had been operating under shorter term visas that created logistical difficulties and unnecessary financial costs to Dr. Lookman and LANL). The defense understands and acknowledges that Dr. Lookman stood to be compensated in association with potential Fellow status, including through access to intellectual resources, students, expenses, and other resources for research, but objects to these Paragraphs for the omission of clarification that Dr. Lookman's position was to be that of Fellow rather than a salaried scientist position. This is important because, while the facts of this case do support the plea in this matter, they do not suggest that Dr. Lookman was engaged in an activity to undercut the United States or its confidential information.

Objection 1.7. The defense objects to omissions in Paragraph 13 which would clarify the nature of Dr. Lookman's global travels and LANL's knowledge of the same. Dr. Lookman's travel was largely related to appearances at scientific conferences, including for presentations known to

LANL authorities. For instance, his travel to Israel and China in the fall of 2018 were for such purposes and LANL was aware of the same. Also, prior to the trip, Dr. Lookman informed LANL the reason for his May 2018 trip was for continued collaborative scientific efforts and he noted that he expected approximately \$4,000 in expenses to be paid by China's Xi'an and Jiaotong University and his primary contact would be Xue.

At the same time, it should be noted that Dr. Lookman informed LANL officers that he was hosted by Xue in China and that the two were working on a collaborative publication through XJTU. (The defense acknowledges that Dr. Lookman's answer to a specific question may have been inaccurate, but he did provide information concerning specific individuals with whom he had contact in China and the nature of the work he was involved in with them). It is also important to remember that the collaborative work of Dr. Lookman did not involve any classified information and was of the sort that was common not only for Dr. Lookman, but for other LANL scientists as well.

Objection 1.8. The defense objects to Paragraph 13 indicating Dr. Lookman advised Xue was not recruited for his current professorship through the Thousand Talents Program. Undersigned counsel does not recall information from discovery indicating Xue was recruited by the Program himself or, if he was, that Dr. Lookman was aware of the same. In short, counsel is unaware of any evidence to support the implication.

Objection 1.9. To the extent that Paragraphs 14 through 18 are subject to the above, the defense objects to the same.

Objection 1.10. As to Paragraph 17, the defense notes that there is material information omitted from the PSR. During the September 13, 2018, interview, Dr. Lookman did provide significant information concerning his foreign contacts, including discussing his "close and

ongoing professional collaboration” with Xiangdong Ding, a former LANL scientist then at XJTU and also discussed travel to China for collaborations with Xue. (This was verified by his supervisor at LANL, Avadh Saxena, who, according to official reports, was aware of ongoing collaboration with two Chinese scientists. The defense reiterates that there is not a dispute that particular information concerning the Thousand Talents Program was not disclosed, but notes that Dr. Lookman did acknowledge ongoing collaboration with two specific individuals at XJTU and that any collaborative work in China was intended for public consumption. While a connection to the Thousand Talents Program may not have been disclosed, the identity of the individuals involved was known to LANL.

II. Clarification of Offender Characteristics and Financial Condition

The defense also raises the following minor considerations as clarification of other portions of the PSR.

Paragraph 45 should state Dr. Lookman and Lise Lookman married in 1988. Dr. Lookman also notes that his daughter was studying in Italy at the time of the PSR interview, but she has since returned to the United States.

Paragraph 47 should note additional medical issues, including a family history of high cholesterol and cardiac disease.

Paragraph 48 should note that Dr. Lookman has been and intends to continue regular weekly meetings with his pastor.

As to Paragraph 52, Dr. Lookman notes the book referenced therein has been completed and published, although Dr. Lookman has not received financial benefit therefrom.

As to the financial condition set forth in Paragraph 54, Dr. Lookman submits the following clarification:

- The approximate value of the Mazda 3 is \$15,000 and the Mazda CX-5 is \$25,000 (this does not alter the overall value of total assets);
- The residence at 704 Agua Fria is jointly owned with Dr. Lookman's daughter;
- The \$30,000 account is not a "Personal Checking" account, it is a Fidelity account;
- The initial mortgage has been paid off and is no longer a monthly expense;
- Dr. Lookman's social security income is approximately \$2,300, not \$1,012; and
- Following the return of Dr. Lookman's daughter to the United States from Italy, monthly expenses associated with her support has decreased to an estimated \$1,740/month.

III. Objections Concerning Guidelines Calculations

As stated above, objections concerning Paragraphs 23 through 31, 57, and 66 related to the Guidelines calculations will be addressed in separate pleading. Similarly, any issues related to a potential request for downward departure will be addressed by sentencing memorandum.

Respectfully submitted,

ROTHSTEIN DONATELLI, LLP

/s/ Paul M. Linnenburger

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of July 2020, I filed this pleading electronically through the CM/ECF system which caused the following parties to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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