

Prof. Implicated As Chinese Agent Says NASA Knew His Work

By **Grace Dixon**

Law360 (November 5, 2021, 8:02 PM EDT) -- A former Texas A&M University professor denied the U.S. Department of Justice's allegations that he shared NASA-funded research with a Chinese university, saying his grant allowed him to collaborate with researchers around the world, even if they were from China.

Zhengdong Cheng urged a Texas federal court to drop the government's charges against him, saying that the restrictions on his research only applied to bilateral work with China or Chinese entities and not multilateral collaboration. NASA was on notice that the work involved researchers in Spain and Russia, so the funding restriction couldn't apply.

"The government ... insinuates in the indictment that Prof. Cheng denied that there was international collaboration in order [to] hide his China affiliations," Cheng said in a Wednesday filing.

"However, it is the government that is trying to cover up the fact that Prof. Cheng made the grant a multilateral project involving international collaborators that [Texas A&M University] could submit and NASA could fund without violating NASA's China Funding Restriction."

The **DOJ charged Cheng** with conspiracy, making false statements and wire fraud in August 2020, claiming in a criminal complaint that the professor covered up his ties to Guangdong University of Technology in China so he could secure a NASA grant worth \$746,967 for experiments at the International Space Station.

The government alleged that Cheng participated in a Chinese program that creates "significant financial incentives" for participants to share foreign technology and intellectual property with the government, and Cheng was uniquely positioned to share data from the ISS with Chinese researchers.

But Cheng countered that the restriction inked in a fiscal year 2012 appropriations bill clearly only applied to bilateral cooperation solely with Chinese entities, and not to cooperation with multiple international bodies which may include Chinese entities.

Later statements by the author of the funding restriction, an opinion issued by the DOJ's Office of Legal Counsel and guidance from NASA itself bolstered his reading, Cheng said.

But he stopped short of acknowledging any direct cooperation with Chinese researchers, instead focusing on the federal government's knowledge of his collaboration with others around the globe.

Texas A&M University's grant application clearly anticipates multilateral cooperation, Cheng argued, pointing to language in his application anticipating collaboration with researchers in Madrid. His grant proposal included letters of support from the Spanish researchers, and NASA later touted the project's collaboration with Russian researchers in a presentation.

Philip Hilder, counsel to Cheng, told Law360 that the case comes down to the federal government's improper characterization of the collaboration.

"The government improperly indicted this case by calling it bilateral, which falls into the prohibition, but this is not the case here — it's multilateral," Hilder said.

Cheng also argued that a grant for work on the ISS is inherently multilateral.

"Scientific work funded by the grant in this case was to be conducted on an international platform that is managed on [a] multilateral basis," Cheng said.

Hilder confirmed Friday that Cheng has been terminated by Texas A&M and is no longer leading the team that received the NASA Grant. Representatives for Texas A&M confirmed Cheng is no longer employed by the university.

Representatives for the federal government did not respond to requests for comment.

Cheng is represented by Philip H. Hilder, Quentin T. Williams and James Rytting of Hilder & Associates PC.

The federal government is represented Carolyn Ferko, Stephen M. McIntyre and Jon Muschenheim of the U.S. Attorney's Office.

The case is United States of America v. Zhengdong Cheng, case number 4:20-cr-00455 in the U.S. District Court for the Southern District of Texas.

-- Additional reporting by Lauren Berg. Editing by Gemma Horowitz.