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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA *ex rel.* DEVIN
ENGLISH,

Plaintiff,

-against-

JEFFREY T. PARSONS-HIETIKKO, *et al.*,

Defendants.

19 Civ. 7705 (RA)

**COMPLAINT-IN-
INTERVENTION OF THE
UNITED STATES OF
AMERICA**

JURY TRIAL DEMANDED

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-against-

JEFFREY T. PARSONS-HIETIKKO and HUNTER
COLLEGE,

Defendants.

Plaintiff the United States of America (the “United States” or “Government”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, herein alleges for its complaint-in-intervention as follows:

INTRODUCTION

1. The United States brings this civil fraud action against defendants Jeffrey T. Parsons-Hietikko (“Parsons”) and his former employer, Hunter College (“Hunter,” and together with Parsons, “Defendants”), a constituent college of The City University of New York, pursuant to the False Claims Act, 31 U.S.C. § 3729, *et seq.* (the “FCA”), and the common law. From January 1, 2010, through May 17, 2018 (the “Covered Period”), Defendants defrauded the United States by materially misusing federal funds obtained from the National Institutes of Health (“NIH”), including to cover Parsons’ personal expenses for travel and other recreation. Defendants also made false certifications and statements to NIH and the U.S. Department of Health and Human Services (“HHS”) regarding Defendants’ use of those funds.

2. Throughout the Covered Period, Parsons was a Professor of Psychology at Hunter and was also the Director of Hunter’s Center for HIV Education and Studies (“CHEST”). Parsons served as the principal investigator for a variety of federally funded research studies relating to HIV prevention and treatment, as well as to health risk behaviors in the Gay, Bisexual, and other Men-who-have-sex-with-men (“GBMSM”) community. During the Covered Period, the majority of Parsons’ research was funded by NIH grants. In addition, in his capacity as the Director of CHEST, Parsons was responsible for administrative oversight of other NIH grants that funded the work of other CHEST personnel and affiliates.

3. Whenever Defendants applied to NIH for grant funding to support academic research conducted by Parsons and CHEST, and as a condition of obtaining those grants, Defendants certified to NIH that the proposed costs delineated in their applications were “true, complete and accurate to the best of [their] knowledge.” Defendants further certified that their use

of grant funds would comply with the federal rules, regulations, and statutes that govern NIH grants.

4. Once the NIH grants were awarded, each time Hunter sought to draw on those federal grant funds, it re-certified to NIH as to the accuracy of the statements in its initial grant applications and reaffirmed its obligation to use NIH grant funds only for permissible purposes.

5. Throughout the Covered Period, Defendants submitted these certifications to NIH annually as part of the grant application process, as well as on a bi-weekly basis in order to draw down funds for employee payroll expenses (which should have been, per the applicable NIH grant rules and regulations, tied to work performed on the NIH grant-funded projects).

6. In direct contradiction of their certifications, however, Defendants misused NIH funds for a number of purposes prohibited by the federal rules, regulations, and statutes that govern those grants.

7. First, Defendants knowingly and improperly used CHEST's federal grant funds to pay CHEST staff for time they spent working for CHEST's private consulting clients. Defendants falsely represented to NIH that CHEST staff had expended time and effort on CHEST's own NIH-funded research, but in actuality, CHEST staff had instead worked on outside projects for which CHEST received payment directly from third parties.

8. In addition to Defendants' joint misuse of NIH-funded staff, Defendants each also misused NIH funds that Hunter had certified to HHS would only be used to support the facilities and administrative costs associated with administering federal grants.

9. Throughout the Covered Period, in conjunction with its NIH grants, Hunter reimbursed itself for the incurrence of facilities and administrative costs (the "Indirect Cost Funds") at a rate consistent with the terms and conditions of the NIH awards, and pursuant to

negotiated agreements Hunter and HHS entered into on an annual basis (the “Indirect Cost Agreements”).

10. Hunter certified to HHS in the Indirect Cost Agreements that the Indirect Cost Funds would be used “on grants, contracts and other agreements with the Federal Government,” and that the Indirect Cost Funds were “subject to any statutory or administrative limitations,” including the rules and regulations that prohibited the use of the Indirect Cost Funds for unallowable purposes, such as alcohol and personal travel.

11. Notwithstanding Hunter’s certifications to HHS in the Indirect Cost Agreements, Parsons knowingly and improperly requested reimbursement from the Indirect Cost Funds for his personal travel expenses. Parsons falsely represented that these reimbursement requests, which included personal expenses associated with scuba diving, international flights for his family, and a tropical birthday celebration, all had an academic or research purpose.

12. Parsons also improperly sought and received double reimbursement from the Indirect Cost Funds for travel relating to his work as a private consultant. During these trips, Parsons worked as a consultant for other institutions on projects unrelated to CHEST’s own NIH grants. Although Parsons already received travel reimbursement from the client institutions for which he consulted, he sought duplicative reimbursement from the Indirect Cost Funds, thereby fraudulently doubling his reimbursement.

13. Hunter also directly misused the Indirect Cost Funds. From December 2010 through December 2013, Hunter improperly used the Indirect Cost Funds to pay Parsons over \$90,000 in retention bonuses, even though NIH rules and regulations prohibit the Indirect Cost Funds from being used to pay undisclosed faculty retention bonuses. Hunter never disclosed and, indeed, took steps to conceal its use of the Indirect Cost Funds to pay bonuses to Parsons.

14. As a result of this conduct, Defendants knowingly (1) presented, or caused to be presented, false or fraudulent claims to the Government; and (2) made, used or caused to be made or used false records and/or statements that were material to false or fraudulent claims to the Government. Accordingly, Defendants are liable under the False Claims Act and the common law for damages and penalties associated with their false and/or fraudulent claims for payment.

JURISDICTION AND VENUE

15. This Court has jurisdiction over the claims brought under the FCA pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. §§ 1331 and 1345, over the remaining claims pursuant to 28 U.S.C. § 1345, and over all claims pursuant to the Court's general equitable jurisdiction.

16. Venue is proper in this judicial district pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. § 1391 because, at all times relevant to this case, Defendants resided and/or regularly conducted business in this judicial district, and a substantial part of the events or omissions giving rise to the claims occurred within this judicial district.

PARTIES

17. Plaintiff is the United States of America. Through its agency HHS, of which NIH is a component agency, the Government awards and administers federal research grants.

18. Defendant Jeffrey T. Parsons-Hietikko is an individual who, throughout the Covered Period, conducted business in New York City. At all relevant times, Parsons was a faculty member of Hunter and the principal investigator for NIH-funded research grants, as well as the Director of CHEST.

19. Defendant Hunter College is a public university and one of the senior colleges of the City University of New York ("CUNY"). Hunter is located on the Upper East Side of Manhattan in New York City.

FACTUAL ALLEGATIONS

I. Background

a. Hunter College and Jeffrey T. Parsons-Hietikko

20. Hunter is comprised of five schools that provide undergraduate and postgraduate studies across more than one hundred fields of study.

21. Beginning in the mid-1980s, Hunter significantly increased its use of federal grant support from an average of \$3 million each year to over \$80 million in 2020.

22. In the early 2000s, Parsons was a substantial contributor to the growth of Hunter's federal grant portfolio. Parsons joined Hunter's Department of Psychology as an Associate Professor in 2000. Hunter granted Parsons tenure in 2003, and promoted him to full professor in 2005. In 2012, Hunter further promoted Parsons to Distinguished Professor.

23. A nationally recognized expert in the health risk behaviors associated with HIV transmission in the GBMSM community, Parsons also served as the Director of CHEST, a research institute Parsons first founded in 1996 and later brought with him to Hunter.

24. Parsons' research focus on behavioral health within the GBMSM community aligned with NIH's funding priorities in the decades following the AIDS pandemic. Beginning in the late 1990s and continuing throughout Parsons' time at Hunter, NIH increasingly embraced (and provided funding for) research studies in the areas of Parsons' academic expertise.

25. Indeed, Parsons distinguished himself at Hunter with his proficiency in obtaining federal grant funding to support his and CHEST's research. Parsons maintained more federal grants, at higher funding levels and across a broader range of research areas, than any other Hunter researcher.

26. At the height of Parsons' success in obtaining federal grant funding, CHEST had \$9 million in federal grants, which constituted approximately 15% of Hunter's total federal grant support.

27. Given Parsons' effectiveness at obtaining federal grant support for Hunter, Hunter considered Parsons to be one of its most prized faculty members. Hunter provided Parsons with numerous perks, including discretionary spending accounts that offered Parsons wide latitude for charging personal entertainment expenses. Moreover, as his federal funding and national profile grew, Parsons demanded an increasing level of personal control over CHEST's federal grants. Parsons sought an individual point-of-contact within Hunter's grant administration office to respond to his personal requests. Parsons also requested and received special accommodations in the reimbursement approval process.

28. When administrators pushed back on Parsons' reimbursement requests or his demands for special treatment, Parsons would elevate his demands to higher-level administrators until he obtained the desired authorization. When administrators or staff opposed his requests for special treatment, Parsons routinely threatened to bring his complaints to the personal attention of Hunter's President. Parsons' direct line to the President's office differentiated him from other faculty, even those faculty who outranked Parsons in tenure or seniority.

b. Hunter's NIH Grant Procedures

29. Through NIH, the Government provides research grants to academic institutions. To obtain funding, institutions submit grant applications to NIH in a process prescribed by NIH.

30. Like all senior colleges within the CUNY system, throughout the Covered Period, Hunter applied for federal grant funding through the Research Foundation for the City University of New York ("RFCUNY").

31. However, Hunter oversaw all substantive aspects of the NIH grants that RFCUNY applied for on its behalf. Moreover, although the individuals who electronically submitted Hunter's grant applications to NIH were RFCUNY employees, insofar as these individuals made certifications in connection with the electronic applications, they did so on behalf of Hunter's Provost. RFCUNY viewed its role in facilitating Hunter's federal grants as limited to that of a fiscal agent, who received NIH funding and oversaw the technical logistics of administering the relevant bank accounts but had no substantive role in either programmatic oversight or decision-making.

32. To initiate the grant funding process at Hunter, the relevant faculty members would prepare a funding proposal that staff at RFCUNY used to generate a grant application to submit to NIH.

33. The grant application incorporated information from the funding proposal, including a detailed description of the Hunter staff time and effort that would be required to conduct the proposed research study, as well as the amount of funding necessary to compensate staff to complete the work.

34. RFCUNY would then submit the completed grant application to the principal Hunter researcher for final review and approval. After the researcher provided his or her approval, RFCUNY electronically submitted the grant application, on behalf of Hunter, to NIH.

35. When submitting the grant application to NIH, an RFCUNY representative signed a certification on behalf of Hunter stating, *inter alia*, that "the statements herein are true, complete and accurate to the best of my knowledge," and that Hunter would "agree to comply" with the terms of any resulting award.

36. Hunter's certifications were material conditions of payment for the NIH funding that Hunter received. Upon approving a grant application, NIH sent RFCUNY a "Notice of Award." The Notice of Award stated that the grant was "based on the application submitted to, and as approved by," NIH, and it identified various "Terms and Conditions" of the grant. Those "Terms and Conditions" included compliance with all applicable statutory and regulatory requirements, as well as the NIH Grants Policy Statement. The NIH Grants Policy Statement provided, *inter alia*, that by submitting a grant application, RFCUNY and Hunter "agree[d] to be fully accountable for the appropriate use of any funds awarded and for the performance of the grant-supported project or activities resulting from the application."

37. The Notice of Award further stated that "[a]cceptance 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." Accordingly, each time Hunter, through RFCUNY, sought to draw down federal funds in connection with a specific NIH grant, RFCUNY and Hunter re-certified to the accuracy of Hunter's statements in the grant application and reaffirmed their responsibility for ensuring that grant funds were used only for appropriate purposes.

38. When Hunter received NIH grant funds as a direct recipient, Hunter obtained its funding via an online system operated by HHS called the payment management system ("PMS"). Throughout the Covered Period, Hunter tabulated the expenses it incurred on its grants and periodically sought reimbursement, through RFCUNY, from NIH by using PMS to draw down funds.

39. For NIH awards issued before October 1, 2015, in accordance with HHS payment policies, when RFCUNY used PMS to withdraw funds to support Hunter's research, it drew

down funds for multiple active NIH grants at one time via so-called “pooled” accounts. Each drawdown thus represented a single, lump-sum dollar amount that covered the reimbursable expenses for several grants over the relevant period. All NIH awards to RFCUNY issued on or after October 1, 2015 were made in PMS subaccounts, and reimbursements were drawn down from that specific project’s subaccount.

40. Whenever RFCUNY conducted a drawdown of NIH funds from PMS in connection with Hunter’s grants, either through a pooled account or subaccounts, RFCUNY acknowledged on Hunter’s behalf all of the terms and conditions of the applicable grants.

c. Hunter’s Indirect Cost Fund Procedures

41. Throughout the Covered Period, in conjunction with its NIH grants, Hunter also received the Indirect Cost Funds from NIH to cover the facilities and administrative costs associated with Hunter’s NIH grants, such as the cost to rent office buildings that housed Hunter researchers, or the salaries of grant administration personnel.

42. The Indirect Cost Funds Hunter received were governed by the Indirect Cost Agreements, which Hunter and HHS entered into on an annual basis.

43. Although Hunter had wider discretion in how it could utilize the Indirect Cost Funds as compared to NIH grant funds, Hunter could not use the Indirect Cost Funds in any manner that contradicted its certifications in the Indirect Cost Agreements.

44. As part of the Indirect Cost Agreements, Hunter certified that the Indirect Cost Funds would be used “on grants, contracts and other agreements with the Federal Government,” and that the Indirect Cost Funds were “subject to any statutory or administrative limitations,” including the statutes, regulations, and rules that prohibited NIH funds from being used for “unallowable expenses.” Throughout the Covered Period, NIH rules and regulations prohibited the

use of the Indirect Cost Funds to, among other things, reimburse personal expenses or to pay faculty retention bonuses not previously disclosed to NIH.

II. Defendants' Fraudulent Misuse of NIH-Funded Staff to Perform Work on Outside Projects

45. As a result of Parsons' influence and reputation in his field, throughout the Covered Period, researchers from academic institutions outside Hunter frequently approached CHEST regarding their own research studies, many of which were themselves funded by separate federal grants.

46. In some instances, outside researchers sought to collaborate with CHEST, and CHEST worked as a subcontractor on the other institution's grants or provided services under a private contract with the other institution.

47. In order to perform work on these projects (the "Outside Projects"), Parsons and Hunter utilized CHEST staff, many of whose salaries were paid for by CHEST's own NIH research grants to work on particular CHEST projects (the "CHEST NIH Grant Projects"). Under the terms of CHEST's own NIH grants and NIH rules and regulations, it was improper to use CHEST staff whose salaries were paid for by CHEST's own NIH grants to perform work on the Outside Projects, rather than on CHEST NIH Grant Projects.

48. The work performed by CHEST staff on the Outside Projects included providing training to outside groups and performing Motivational Interviewing Treatment Integrity coding, or "MITI" coding.

49. MITI coding involves the review of audio recordings from therapy sessions to determine whether the clinician conducting the session has effectively engaged in "motivational interviewing," a therapeutic treatment modality that Parsons specialized in.

50. In order to perform MITI coding, staff at CHEST (usually junior or entry-level) would complete a coding template while listening to an audio recording of a therapy session. The coding template allowed the coder to record whether the therapist had satisfied certain clinical criteria during the recorded session.

51. During the Covered Period, outside institutions seeking to improve their use of motivational interviewing would approach CHEST to either conduct MITI trainings or to MITI code their therapy sessions.

52. Parsons routinely directed CHEST staff, mostly students and research assistants and including staff paid for by grants funding the CHEST NIH Grant Projects, to complete this work for third-party institutions.

53. Once CHEST staff completed their work for the Outside Projects, CHEST would instruct the client third-party institutions to remit payment to Hunter, a Hunter affiliate, or a private entity owned by Parsons.

54. Rather than reimburse NIH for the time and effort CHEST employees spent on the Outside Projects, instead of on the CHEST NIH Grant Projects, Defendants deposited the funds they received for the Outside Projects into discretionary accounts to benefit CHEST and Parsons.

55. These accounts included several RFCUNY accounts created to support CHEST's non-grant-specific expenses, such as travel, staff parties, and general administrative and clerical costs, as well as a discretionary account Hunter created for Parsons at an affiliated private foundation (the "Foundation Account"). The express purpose of the Foundation Account was to pay for expenses, such as alcohol, that would not have been an allowable use of NIH funds.

56. Throughout the Covered Period, neither Hunter nor Parsons took any steps to ensure that Hunter did not fraudulently use NIH grant funds to compensate CHEST staff for work

on the Outside Projects, which were unrelated to the CHEST NIH Grant Projects. In fact, Defendants improperly used CHEST's NIH grant funds to do just that.

57. On a bi-weekly basis, CHEST staff accurately reported their time on timesheets submitted to CHEST's leadership. These timesheets contained an "Other" section in which CHEST staff reported the percentage of their time spent on the Outside Projects, including time performing MITI coding for the Outside Projects.

58. When requesting NIH grant funds to pay the salaries of CHEST staff, however, RFCUNY did not consult CHEST's timesheets. Instead, RFCUNY relied on a spreadsheet that Defendants provided, which purported to reflect the percentage of time and effort that CHEST staff spent working on CHEST NIH Grant Projects (the "Staff Allocation Spreadsheet"). RFCUNY used the information reported on the Staff Allocation Spreadsheet to submit requests through PMS to withdraw NIH grant funds on Hunter's behalf.

59. The Staff Allocation Spreadsheet contained a row corresponding to every salaried employee at CHEST, along with columns corresponding to each of the CHEST NIH Grant Projects. Based on the recorded time and effort, the Staff Allocation Spreadsheet calculated the amount of NIH grant funds that needed to be drawn down to support the work of CHEST's salaried employees on the CHEST NIH Grant Projects.

60. While administrative staff at CHEST created the Staff Allocation Spreadsheet, as the Director of CHEST, Parsons himself had final approval authority and was responsible for ensuring the spreadsheet's accuracy.

61. Throughout the Covered Period, the Staff Allocation Spreadsheets did not accurately delineate and separately record the time and effort that CHEST staff spent on the

Outside Projects. Instead, the work of CHEST's staff on the Outside Projects was incorrectly allocated on the Staff Allocation Spreadsheet to the CHEST NIH Grant Projects.

62. Accordingly, throughout the Covered Period, Hunter and Parsons repeatedly falsely reported, for purposes of obtaining reimbursement from NIH grant funds, that salaried CHEST staff spent time and effort working on the CHEST NIH Grant Projects that they had actually expended on the Outside Projects.

63. Having fraudulently used NIH grant funds to compensate CHEST staff for working on the Outside Projects, Hunter and Parsons then had at their disposal the full balance of funds paid by CHEST's private clients for the Outside Projects.

64. For example, from August 2013 through August 2015, CHEST performed substantial hours of MITI training and coding work for a New York City-based non-profit ("Non-Profit X"). Non-Profit X used its own federal grant funds to pay CHEST over \$50,000. Rather than pay the CHEST staff who performed services for Non-Profit X with these funds, however, Defendants instead paid CHEST staff with NIH grant funds intended to support the CHEST NIH Grant Projects—and Defendants then deposited the funds received from Non-Profit X into the Foundation Account.

65. Throughout the Covered Period, Parsons submitted for reimbursement from the Foundation Account tens of thousands of dollars in receipts for alcohol purchases, from bars, nightclubs, and restaurants. Moreover, Parsons made no effort to hide that he was seeking reimbursement for alcohol expenses. In an August 30, 2017 e-mail discussing the Foundation Account with Hunter administrators, Parsons wrote, "[a]nd we were told years ago 'support for professional development/networking' was the 'code' to be used for alcohol!"

66. Hunter and Parsons also remitted funds received for the Outside Projects directly to Parsons' own private accounts.

67. From July 26, 2016, through January 21, 2018, an academic institution from the west coast ("Institution West") paid Mindful Designs, a limited partnership controlled by Parsons and his husband, over ten thousand dollars for MITI coding services provided in part by NIH-funded CHEST staff.

68. In an e-mail dated April 21, 2016, Hunter's Director of Research Administration confirmed that Institution West could directly pay Mindful Designs for MITI coding services performed by CHEST, and Mindful Designs "could make a payment to [the Foundation Account] once the project is over for the MITI coding." Hunter never followed up, however, to ensure that Parsons made any payment to Hunter for the work that CHEST employees performed for Institution West.

69. Funneling the proceeds of work performed by NIH-funded CHEST staff into discretionary accounts used for purposes outside of staff payroll, Defendants repeatedly improperly used CHEST, at the Government's expense, to generate income for both Parsons and CHEST's unfettered use.

70. From August 2016 through December 2017, the Staff Allocation Spreadsheets that Defendants provided to RFCUNY reported \$74,980.70 of salary expenses for time CHEST staff purportedly spent working on the CHEST NIH Grant Projects. CHEST's own timesheets for the same time period reflect, however, that CHEST staff actually spent a substantial amount of that reported time working on the Outside Projects.

71. Timesheets throughout this period reflect that, even when a CHEST staff member reported that they spent 40-60% of their time and effort on the Outside Projects, Defendants

fraudulently continued to withdraw NIH funding at a level consistent with the staff member having spent 100% of their time and effort on CHEST NIH Grant Projects.

72. Even though Hunter had actual notice that CHEST staff performed work on the Outside Projects, Hunter repeatedly deposited payments that CHEST received for the Outside Projects into discretionary accounts over which Parsons had unilateral control and authority, including a private bank account held by Parsons' consulting company, Mindful Designs. Hunter further knew that the bank accounts into which it deposited payments received on the Outside Projects did not fund CHEST staff payroll. In spite of this knowledge, Hunter never took any action to inquire into whether Parsons had improperly utilized NIH-funded CHEST staff to perform private consulting work.

73. Indeed, Hunter's Director of Research Administration never considered reviewing whether NIH-funded CHEST staff had been improperly utilized on the Outside Projects, nor did Hunter give anyone else the responsibility to ensure they were not.

74. Hunter instead assumed that RFCUNY would monitor Parsons' grants for potential abuse. However, Defendants never made RFCUNY aware that CHEST staff worked on the Outside Projects.

75. In May 2018, following Parsons' departure from Hunter, Hunter undertook its own internal review of CHEST's time records after billing irregularities came to the attention of Hunter's Provost. This review revealed that Parsons had misused NIH-funded CHEST staff to generate income for himself by depositing certain payments received for the Outside Projects into an account held by Mindful Designs. Although Hunter's Provost shared this finding with Hunter's President, Hunter ultimately failed to take any action to either further inspect CHEST's records or notify NIH that funds had been fraudulently misappropriated.

76. Defendants further obfuscated their use of payments received for the work of NIH-funded staff by failing to report to NIH that the Outside Projects were an additional source of financial support for CHEST's work.

77. NIH grant applications instruct applicants to list additional sources of financial support beyond NIH. These disclosures enable NIH to identify: (1) how grant-funded staff may be spending their time outside of grant-funded projects; (2) how NIH funds may be received by applicants through various indirect channels; and (3) what non-NIH sources of support may be available to an institution. Defendants were required to disclose their Outside Project clients in this section of CHEST's own grant applications, but they consistently failed to do so.

78. As a result of these omissions, Defendants misrepresented to NIH the degree to which CHEST staff expended their time and effort on the Outside Projects, and fraudulently obtained and expended NIH grant funds to pay CHEST staff for work that they did not perform.

79. Had NIH been made aware that CHEST's NIH-funded staff expended significant amounts of time working on the Outside Projects, that knowledge would have materially affected NIH's funding decisions for the CHEST NIH Grant Projects.

III. Defendants' Fraudulent Misuse of the Indirect Cost Funds

a. Parsons' Use of the Indirect Cost Funds for Personal Expenses

80. In April 2007, Parsons approached Hunter with recruitment offers he had received from other academic institutions. Parsons argued that, to convince him to reject these competing offers, Hunter would need to provide Parsons with more favorable employment terms.

81. In response, Hunter sent Parsons a letter outlining the terms of a generous new retention package. In the letter, Hunter offered to "immediately" treat CHEST as "an official CUNY center with respect to indirect cost recoveries for infrastructure, administrative, pre-award

activities, travel, professional development, and other research-related costs that are not permissible as direct costs.” The practical effect of this offer was that, from that point forward, Parsons had direct access to a percentage of the Indirect Cost Funds associated with the CHEST NIH Grant Projects.

82. To effectuate the terms of Parsons’ new retention agreement, Hunter directed RFCUNY to deposit the Indirect Cost Funds into bank accounts from which Parsons could, at his discretion, withdraw funds for his and CHEST’s administrative, pre-award activities, travel, professional development, and other research-related costs. Hunter referred to these discretionary accounts, which were funded directly by the Indirect Cost Funds, as the “9th Ledger Accounts,” because the account numbers associated with these accounts all began with the number “9.”

83. In order to access the 9th Ledger Accounts, Parsons could submit receipts for reimbursement specifically against those Accounts. Parsons could also seek permission to withdraw cash advances from the 9th Ledger Accounts or use a credit card that was always paid off directly from those Accounts.

84. Parsons understood, however, that the 9th Ledger Accounts should not have been used to reimburse personal expenses that had no academic or research purpose, as those expenses would be an unallowed use of the Indirect Cost Funds in violation of Hunter’s annual certifications to HHS.

i. Parsons Fraudulently Funded Personal Trips with the Indirect Cost Funds

85. Beginning in at least 2013, however, Parsons began to improperly seek reimbursement from the Indirect Cost Funds for expensive and extensive personal travel.

1. Parsons' Scuba Trips

86. Much of the personal travel that Parsons funded with the Indirect Cost Funds involved scuba diving, a special interest of Parsons.

87. On multiple occasions, Parsons joined social trips organized to encourage scuba diving in the LGBTQ community, for which he would then seek reimbursement from the 9th Ledger Accounts.

88. During the trips, Parsons would drink alcohol, socialize, scuba dive, and participate in recreational events intended to facilitate socializing, such as a drag contest for all attendees.

89. To perpetuate the ruse that his scuba trips had an academic purpose, in March 2012, Parsons went so far as to obtain approval from Hunter's Institutional Review Board for the Protection of Human Research Participants (the "IRB") to work with human subjects as part of a study entitled "Safety in the Context of High Risk Activities: Exploring Novel Applications in the Field of Sexual Health." Parsons then relied on this IRB approval to support the ostensible academic and research purposes of his subsequent scuba trips.

90. Parsons never actually recruited any research participants, however, nor did he engage in any other work relating to the prospective study—and in March 2014, given his lack of activity, Parsons allowed the IRB approval for the study to lapse.

91. Notwithstanding the total lack of any relevant academic or research activity, throughout 2013 and into 2017, Parsons continued to seek tens of thousands of dollars in reimbursement from the Indirect Cost Funds in the 9th Ledger Accounts to fund scuba diving trips to multiple countries.

92. Parsons' scuba diving adventures included trips to the Cayman Islands in February 2013; Bonaire, in the Dutch Antilles, in March 2015; Cuba in June 2015; Costa Rica in September

2015; Fiji in February 2016; a second Cuba trip in September 2016; Cozumel, Mexico, in February 2017; and Belize in October 2017.

93. Each time Parsons sought reimbursement from the Indirect Cost Funds for his overseas scuba trips, he represented to Hunter that the trip was related to prospective research, even though he never conducted any academic or research activity during the trips.

94. Parsons did not create any documents, data, or records reflecting research he conducted while he was on the scuba trips.

95. Moreover, after multiple years of inactivity, Parsons also knew that he had no intention of conducting research relating to his trips. Whenever Parsons returned from a scuba trip, neither Parsons nor anyone else at CHEST ever conducted any academic or research activity relating to Parsons' trip. There was never any data collected, any notes created, any study participants recruited, or any meetings or discussions that even tangentially touched upon Parsons' scuba diving.

96. Instead, Parsons' "scuba study" became known amongst CHEST personnel as Parsons' personal boondoggle, a series of all-expense paid vacations that catered to Parsons' desire to scuba dive in exotic locales. Unbeknownst to anyone else at CHEST, however, Parsons fraudulently funded his boondoggle with the Indirect Cost Funds, in violation of Hunter's certifications to NIH as part of the Indirect Cost Agreements.

2. Parsons' Cape Town and Puerto Rico Trips

97. In addition to his scuba trips, Parsons also fraudulently sought reimbursement from the Indirect Cost Funds for other types of personal travel.

98. From 2016 through 2017, Parsons sought reimbursement from the Indirect Cost Funds for travel to Cape Town and Puerto Rico.

99. As part of his request for reimbursement from the Indirect Cost Funds for his trips to Cape Town and Puerto Rico, Parsons represented that the trips had an academic purpose.

100. For the Cape Town trip, during which Parsons himself attended an academic conference, Parsons requested reimbursement from the Indirect Cost Funds for an \$11,928.46 business class ticket to fly to Cape Town. However, Parsons later found a less expensive flight.

101. Even though he had already received reimbursement from the Indirect Cost Funds for the \$11,928.46 flight, Parsons returned his original ticket and received a full refund from the airline. Parsons then ultimately flew to Cape Town for an academic conference on the less expensive flight, joined by two family members. Parsons used the reimbursement he received from the Indirect Cost Funds to pay for the personal travel of those family members.

102. Although his family members' flights were entirely personal in nature and without any academic or research purpose, Parsons never reimbursed Hunter or NIH for the difference in cost between his original \$11,928.46 flight and the less expensive flight that he ultimately took.

103. Parsons also requested reimbursement from the Indirect Cost Funds for the cost of his accommodations at a resort during the Puerto Rico trip. While at the resort, Parsons celebrated his fiftieth birthday with his husband and a group of friends. In fact, the week before the Puerto Rico trip, Parsons sent an e-mail to CHEST staff, stating: "And as a reminder, I'm out all of next week to celebrate turning 50."

104. However, Parsons represented to RFCUNY that the Puerto Rico trip had an academic or research purpose, and RFCUNY accordingly reimbursed his expenses from the 9th Ledger Accounts on that basis.

105. Parsons did not reimburse Hunter or NIH for the time he spent at the resort during the Puerto Rico trip.

b. Parsons' Duplicative Invoice Scheme

106. Beyond his improper use of the Indirect Cost Funds for his personal trips, Parsons also sought duplicative reimbursement from the Indirect Cost Funds for travel for which he had already been reimbursed by other institutions.

107. From 2016 through 2018, Parsons sought and received reimbursement from the Indirect Cost Funds for eight separate trips to Denver, Chicago, and Los Angeles. However, during these trips, Parsons was not working on projects relating to CHEST NIH Grant Projects, but instead was working as a consultant for other institutions. Parsons also received payment for his travel expenses from these other institutions that hired him as a consultant.

108. Although he had already been reimbursed for his travel expenses by his consulting clients, Parsons sought and received additional reimbursement from the Indirect Cost Funds in the 9th Ledger Accounts for these same travel expenses.

109. As a result, Parsons effectively used the Indirect Cost Funds to double the reimbursement he received for travel expenses relating to his consulting work, pocketing the windfall for himself.

110. Parsons did not reimburse Hunter or NIH for any of the Indirect Cost Funds he received relating to his travel to Denver, Chicago, and Los Angeles as a consultant for other academic institutions.

c. Hunter's Improper Incentive Bonus Payments to Parsons

111. As part of its efforts in April 2007 to offer Parsons a more generous compensation package, Hunter also offered to supplement Parsons' salary through NIH funding that Hunter received in conjunction with the CHEST NIH Grant Projects.

112. Specifically, Hunter told Parsons, verbally and via e-mail, that it would pay him periodic bonuses taken directly from the Indirect Cost Funds.

113. Beginning in December 2010, and continuing through December 2013, Hunter paid Parsons seven “salary supplements” taken directly from the Indirect Cost Funds, each in excess of \$10,000 and totaling more than \$90,000.

114. With each request, Hunter’s Director of Research Administration completed and signed an RFCUNY form representing that the funds would be chargeable exclusively to “Organized Research.” Nowhere on the request form did Hunter report to RFCUNY that the funds would be paid directly to Parsons as a bonus.

115. As part of each request, Hunter further asked RFCUNY to issue a check to be paid to the Foundation Account. Once RFCUNY issued the requested check, Hunter deposited the funds into the Foundation Account, and the private foundation, at Hunter’s direction, then immediately issued a check for the same amount to Parsons. Hunter intentionally routed these payments through the private foundation to avoid RFCUNY’s own prohibition against using the Indirect Cost Funds to pay salary supplements, as well as to avoid itself making such payments to Parsons.

116. In May 2014, Parsons himself raised concerns about the propriety and legality of these “salary supplement” payments. In an e-mail to Hunter’s Director of Research Administration, Parsons wrote, “as much as I don’t want to look a 25K gift horse in the mouth, . . . [my accountant] is very concerned about the audit risks of receiving a ‘salary supplement’ from [the foundation] which is tied to my social (and thus I pay taxes on it), but is paid as a consultant with a 1099 rather than a W-2.” Parsons further explained that he had advised his accountant of “the situation,” but that his accountant advised that the “IRS would take issue with—in essence—the same institution paying me as an employee and a consultant.”

117. In response to Parsons' e-mail, Hunter's Director of Research Administration wrote to Parsons that "I hate to say it, but [your accountant] is right on all the points he has raised." Hunter's Director of Research Administration further explained that "[y]our accountant's concern has been what [RFCUNY's] accounting firm . . . has been telling [RFCUNY], which is why the payment was not going through [RFCUNY] but rather through the [the foundation]." The e-mail further stated that "trying to process payment through the alternate route the accountant suggested would not make it through the [conflict of interest] review."

118. In light of these concerns, Hunter's Director of Research Administration went on to conclude that "I don't see a solution to this. The fact that we were able to do it until the end of 2013 is kind of amazing," and "[a]t least the money that we had been transferring will stay in your 9th ledger account at [RFCUNY]."

119. In other words, Hunter took intentional actions to deceive not only the Government but also RFCUNY as to its use of the Indirect Cost Funds to pay salary supplements to Parsons. In violation of its certifications on the Indirect Cost Agreements, Hunter knowingly used the Indirect Cost Funds to pay Parsons these unallowable supplements.

COUNT ONE

(As to Hunter and Parsons)

Violation of the False Claims Act

(31 U.S.C. § 3729(a)(1)(A))

The Submission of, or Causing the Submission of, False Claims

120. The United States repeats and realleges the allegations in paragraphs 1 through 119 with the same force and effect as if set forth fully herein.

121. The Government seeks relief against Defendants under Section 3729(a)(1)(A) of the FCA, 31 U.S.C. § 3729(a)(1)(A).

122. As set forth above, Defendants knowingly, or acting with deliberate ignorance and/or reckless disregard of the truth, presented and/or caused to be presented to an officer, employee or agent of the United States, either directly or indirectly, false or fraudulent claims for payment or approval in connection with NIH research grants and the Indirect Cost Funds. Specifically, Defendants knowingly presented, or caused Hunter to present, false or fraudulent claims for reimbursement for expenses that Defendants represented were legitimately incurred in connection with the CHEST NIH Grant Projects, but in fact were incurred on the Outside Projects or other unallowable expenses.

123. As a result of Defendants' conduct, the United States, through HHS and its component NIH, paid false or fraudulent claims to Hunter and CHEST. Had the United States known of Defendants' conduct, it would not have paid those claims.

124. By reason of Defendants' conduct, the Government has been damaged in a substantial amount to be determined at trial, and is entitled to a civil penalty as required by law for each violation.

COUNT TWO
(As to Hunter and Parsons)

**Violation of the False Claims Act
(31 U.S.C. § 3729(a)(1)(B))
Use of False Statements**

125. The United States repeats and realleges the allegations in paragraphs 1 through 119 with the same force and effect as if set forth fully herein.

126. The Government seeks relief against Defendants under Section 3729(a)(1)(B) of the FCA, 31 U.S.C. § 3729(a)(1)(B).

127. As set forth above, Defendants knowingly, or acting with deliberate ignorance and/or reckless disregard of the truth, made, used or caused to be made or used false records

and/or statements material to false or fraudulent claims relating to Hunter's receipt of NIH funds in connection with NIH grants and the Indirect Cost Funds. Specifically, Defendants knowingly made, or caused Hunter to make, false or fraudulent records and/or statements that were material to false or fraudulent claims made by Hunter for receipt of NIH funds in connection with the CHEST NIH Grant Projects and the Indirect Cost Funds.

128. As a result of Defendants' conduct, the United States, through HHS and its component NIH, paid false or fraudulent claims to Hunter and CHEST. Had the United States known of Defendants' conduct, it would not have paid those claims.

129. By reason of Defendants' conduct, the Government has been damaged in a substantial amount to be determined at trial and is entitled to a civil penalty as required by law for each violation.

COUNT THREE
(As to Hunter and Parsons)

Unjust Enrichment

130. The United States repeats and realleges the allegations in paragraphs 1 through 119 with the same force and effect as if set forth fully herein.

131. NIH relied on Defendants' statements regarding their use of grant funds and the Indirect Cost Funds when deciding whether to make payments to Hunter.

132. When Defendants withdrew NIH funds in connection with the NIH grants at issue in this case, they used a portion of those funds for impermissible non-grant or other unallowable purposes.

133. Had the United States known of Defendants' conduct, it would not have paid Hunter NIH funds in connection with the NIH Grant Projects at issue in this case.

134. Accordingly, Defendants received NIH funding to which they were not entitled, and therefore were unjustly enriched. The circumstances of these payments are such that, in equity and good conscience, Defendants should not retain these payments, the amount of which is to be determined at trial.

COUNT FOUR
(As to Hunter and Parsons)

Payment by Mistake of Fact

135. The United States repeats and realleges the allegations in paragraphs 1 through 119 with the same force and effect as if set forth fully herein.

136. The United States seeks relief against Defendants to recover monies paid under mistake of fact.

137. The United States made payments to Hunter in connection with the NIH grants at issue in this case based on a mistaken and erroneous understanding that the funds paid were being used in accordance with the terms and conditions of the CHEST NIH Grant Projects, as well as the Indirect Cost Agreements between Hunter and NIH.

138. Had the United States known of Defendants' conduct, it would not have paid Hunter federal funds in connection with the NIH grants at issue in this case.

139. By reason of the foregoing, the United States has sustained damages in an amount to be determined at trial.

REQUEST FOR RELIEF

WHEREFORE, the United States requests that the Court enter judgment in its favor and against Defendants as follows:

1. For Counts One and Two, awarding treble the amount of actual damages incurred by the United States;
2. For Counts One and Two, assessing an appropriate civil penalty for each false claim and false statement or record, as provided for by the False Claims Act;
3. For Counts One and Two, awarding costs, pursuant to 31 U.S.C. § 3729(a)(3);
4. For Counts Three and Four, awarding damages in an amount to be determined at trial, together with costs and interest; and
5. Awarding such further relief as is proper.

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable.

Dated: New York, New York
January 3, 2021

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