



VICE-PRINCIPAL (RESEARCH)

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August 31, 2010

Dr. Morteza Shirkhazadeh
Nicol Hall, Room 328 A
Queen's University
Kingston, ON K7L3N6

Dear Dr. Shirkhazadeh:

I am writing in response to a series of allegations made by you against Dr. Smith (and in some cases co-authors) from October 26, 2009 to January 4, 2010. I have now made a decision in accordance with Section 6 of the *Queen's University Senate Policy on Integrity in Research (Policy)*.

Before proceeding with the considerations for my decision, I note that in addition to the time spent in evaluating the materials related to your current round of allegations from October 2009 to January 2010 and the related materials from the previous investigation of your allegations, I have also had to spend considerable time responding to NSERC regarding your allegations of institutional non-compliance (relating to the investigations in 2005) submitted over the period of December 2009 to May 2010. My final determination was dependent upon NSERC's decisions regarding these allegations of institutional non-compliance and hence this caused considerable delay in responding to your initial allegations. As indicated to you by NSERC in their letter dated June 2, 2010 (attached), in response to your series of allegations of institutional non-compliance NSERC has concluded there was no basis to conclude the University did not comply with the expectations for investigating integrity cases as outlined by the *Memorandum of Understanding on Roles and Responsibilities in the Management of Federal Grants*.

In coming to my decision regarding whether a full investigation of your allegations was warranted, I carefully considered the details of all of your allegations, the supporting material you provided with the allegations, the responses from Dr. Smith and Dr. Scott (where relevant) to the allegations, allegations against Dr. Smith submitted by you in 2005-06 and findings in this regard, and other information that has become available to me.

Firstly, I would like to draw your attention to the final paragraph of Section 4 of the *Policy* that reads "Honest error, conflicting data or differences in interpretation of data, or differences in assessment of experimental design or practice do not constitute fraud or misconduct". Secondly, in order to initiate a full investigation, there must be "sufficient evidence to indicate a situation may exist that would constitute misconduct", as that word is defined in the *Policy*; that is, there needs to be evidence of wrongdoing rather than of error or difference of opinion between you and the authors.

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My review of the evidence available to me (noted earlier) revealed a small number of errors over the multitude of publications submitted; however, I could find no evidence to indicate that there was misconduct or an intent to mislead. What was evident from my review is that there are persistent differences in opinion between you and Dr. Smith with regard to the use and interpretation of the data collected and analyzed many years ago. These differences formed the basis of many of your allegations in 2005-06 with regard to data integrity and the investigation at that time concluded there was no evidence of misconduct.

Differences in scientific opinion are best debated in the open literature and I am satisfied there has been opportunity for your differences with Dr. Smith's work to be debated publically as they should be. You have published a comment (Journal of Applied Physics, 102, 186102, 2007) in response to the 2004 paper by Huang, Yang, and Smith (Journal of Applied Physics, Vol.96, 2004). I also note Dr. Smith responded to your comment (Journal of applied Physics 102, 086103, 2007) to defend against your criticisms and this was published as well. Additionally, you have published a paper (*Acta Astronautica* 64, 256-263, 2009) in which you address your concerns. In fact, in the "Selected Publications" section on your departmental webpage (dated August 27, 2010) four of the five publications noted appear to be focussed on criticising Dr. Smith's work (the 5th publication focussing on a teaching and classroom demonstration for thin-layer fuel cell). I should also note that I am aware that you had written another comment in response to the paper by Scott and Smith (Journal of Applied Physics, 104, 043706) which was judged by the reviewers and the Journal not to be worthy of publication. It is clear that you and Dr. Smith have a difference of opinion. I have no doubt that you will never be satisfied; however your disagreement regarding the interpretation of the data does not constitute misconduct by Dr. Smith's or his co-authors.

In addition, I have carefully considered the implications of the passage of time between the submission of your current allegations and the timeframe within which the experimental work that is ultimately the source of most of your current allegations was conducted and the papers published. For the most part your allegations regarding the current papers refer ultimately to source data that was originally published in papers examined in the 2005 investigation and are simply referenced in later papers, rather than data generated for the publications currently in question. As noted above, the 2005 investigation of these "source" papers found no evidence of misconduct with regard to data integrity. In any event, any re-investigation of the original source data would have been very unfair given the passage of time between the collection and original publication of the data. Our *Policy* requires the retention of data for 5 years post publication. We are long past that time point for the source data ultimately in question with your current allegations.

In addition to allegations concerning data integrity, I acknowledge you also made other non-data-centric allegations in your series of allegations received between October 26, 2009 and January 4, 2010. With respect to these allegations I also concluded that there was insufficient evidence to indicate misconduct may have occurred.

In summary, my decision with respect to all your 2009-2010 allegations is there is insufficient evidence to indicate a situation may exist that would constitute misconduct to warrant proceeding with full investigation.

Having completed my extensive and careful review of your latest allegations, I now consider the matter related to the allegations against Dr. Smith and co-workers as detailed above to be closed. Likewise, I consider all issues related to your prior allegations to be closed.

Given the significant number of related allegations and their disposition, we will not accept any new allegations from you against the individuals named in previous allegations that involve publications and any other documents already listed in previous allegations made by you. I caution you that any further allegations regarding the same data/issues will be carefully examined to determine if they are truly novel and have been made in good faith.

Yours sincerely,

A handwritten signature in black ink that reads "Kerry Rowe". The signature is written in a cursive style with a large, prominent initial "R".

R. Kerry Rowe
Vice-Principal (Research)

Enclosure: Letter from NSERC to M. Shirkhazadeh dated June 2, 2010

- c. Official File, Faculty of Applied Science and Engineering, Queen's University
Prof. Daniel Woolf, Principal and Vice-Chancellor, Queen's University
Ms. Marie Emond, Research Ethics and Environmental Assessment Coordinator, NSERC
Dr. Michael Birk, Department of Mechanical and Materials Engineering, Queen's University



Natural Sciences and Engineering
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June 2, 2010

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Dr. Morteza Shirkhazadeh
Department of Mechanical & Materials Engineering
Queen's University
MCLAUGHLIN HALL
130 STUART ST
KINGSTON ON K7L 3N6

Dear Dr. Shirkhazadeh:

This is in response to the series of e-mails regarding allegations of institutional non-compliance against Queen's University you submitted to NSERC over the period December 2009 to May 2010.

NSERC has completed its review of the allegations of institutional non-compliance and finds that there is no basis to conclude that the University did not comply with the *Memorandum of Understanding on Roles and Responsibilities in the Management (MOU) of Federal Grants*.

It is important to note that since the case you refer to in your allegation was reviewed in 2005-06, the University revised its procedures and policies related to research integrity, and NSERC has established a new *Tri-Agency Process for Addressing Allegations of Non-Compliance with Agency Policies* which can be found on our website at the following: http://www.nserc-crsng.gc.ca/NSERC-CRSNG/governance-gouvernance/process-processus_eng.asp.

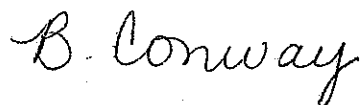
NSERC considers the matter related to the allegations against the university closed and will not entertain further allegations related to this case given the significant period of time that has elapsed since the original case of 2005 and the fact that there were many opportunities for you to bring your concerns to NSERC's attention in a more timely manner.

The allegations you have made against individual researchers from October 2009 to January 2010 are being addressed separately by NSERC through the normal process with the institutions.

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Given the significant number of related allegations made in the last year, NSERC will not accept new allegations from you against individuals named in previous allegations and that involve publications and any other documents already listed in previous allegations made by you.

Sincerely,

A handwritten signature in cursive script that reads "B. Conway".

Barbara Conway
Corporate Secretary

c.c. Dr. Kerry Rowe, Vice-Principal, Research, Queen's University