



United States Department of Agriculture

Research, Education, and Economics
Agricultural Research Service

August 3, 2015

Dr. Jonathan Lundgren
USDA/ARS/PA
Integrated Cropping System Research Unit
2923 Medary Avenue
Brookings, SD 57006

Dear Dr. Lundgren:

This letter serves as my decision on your proposed thirty (30) calendar days suspension from duty without pay from your position as Research Entomologist, GS-0414-14, Integrated Cropping Systems Research Unit, Plains Area (PA), Agricultural Research Service (ARS), United States Department of Agriculture (USDA), Brookings, South Dakota. In a letter dated May 7, 2015, Dr. Sharon Papiernik, Supervisory Research Soil Scientist, Integrated Cropping Systems Research Unit, proposed to suspend you from duty without pay for thirty (30) calendar days for **(1) Violation of Prescribed Travel Procedures; (2) Failure to Follow Supervisory Instructions; (3) Absent Without Approved Leave (AWOL); (4) Misuse of Government Vehicle; (5) Falsification; and (6) Acceptance of travel and related expenses from non-Federal sources without prior approval**, under the provisions of Title 5, Code of Federal Regulations, Chapter 752. The specific reasons for the proposed action were outlined in the proposal letter.

In the proposal letter, you were advised of your right to reply to the charge, both orally and/or in writing, within fifteen (15) calendar days of your receipt of the proposal letter. You requested and were granted an extension to reply to the proposal. You provided a written reply dated June 8, 2015. You did not request an oral conference.

Charge 1: Violation of Prescribed Travel Procedures

In your written response, you admitted to not submitting the paperwork for your travel to Pennsylvania and to Washington D.C. Your actions were a direct violation of Policies and Procedures (Delegations of Authority to Approve Travel) P&P 340.0. Therefore, Charge 1 is sustained.

Charge 2: Failure to Follow Supervisory Instructions

Specifications 1 and 2 of Charge 2 of the proposal address your failure to follow instructions regarding submission of a manuscript on monarch butterflies. In your written response, you stated you followed the typical procedure when you submitted your manuscript for publication. Based on the information provided, I find there was a possibility of misperception regarding the

approval needed to submit your manuscript referenced in Charge 2, Specification 1, therefore this specification is not sustained.

In regards to Charge 2, specification 2, on February 26, 2015, Dr. Papiernik informed you that the manuscript was sensitive (requiring prior approval at the Area and National Program levels) and not approved in ARIS. Despite being placed on this notice, you ignored Dr. Papiernik's instructions and submitted the unapproved manuscript to a second journal, *The Science of Nature*, on March 11, 2015. Therefore, this specification is sustained.

In regards to Charge 2, specifications 3 and 4, you admitted you did not return to work as instructed by Dr. Papiernik. Your actions were a direct violation of the Departmental Regulation Employee Responsibilities Conduct 4070-735-001. Therefore, Charge 2, Specifications 3 and 4 are sustained.

Charge 3: AWOL

In your written response, you admitted you did not return to your duty station even when you were informed you would be charged AWOL until you returned. Your actions were a direct violation of P&P (Leave Administration) 402.6. Therefore, Charge 3 is sustained.

Charge 4: Misuse of Government Vehicle

In your written response, you admitted to using the Government vehicle to drive to the airport; however, you stated you did not willfully misuse the vehicle because you thought your travel would be approved. Therefore, Charge 4 is not sustained.

Charge 5: Falsification

In your written response, you admitted to providing false information to Dr. Bryan Kaphammer, Plains Area Acting Associate Director, on several occasions. Your actions were a direct violation of the Departmental Regulation Employee Responsibilities Conduct 4070-735-001. Therefore, Charge 5 is sustained.

Charge 6: Acceptance of travel and related expenses from non-Federal sources without prior approval.

In your written response, you admitted to accepting travel and related expenses from non-Federal sources without prior approval. Your actions were a direct violation of the General Services Administration travel regulation 41 CFR 304-3.12. Therefore, Charge 6 is sustained.

In your response to the proposed suspension, in addition to contesting the charges against you, you also claim that since 2013 – 2014, based upon the content of your research, you have 1) been subjected to a pattern of harassment and 2) experienced interference with your research. As to the content of your research, you cite to your data showing adverse effects of neonicotinoid pesticides and questions you raised concerning risks posed by RNAi-based pesticides.

I find the evidence does not support your assertions. First, as to the content of your research, as you note in your Complaint of Violations of USDA Scientific Integrity Policy, appended to your response to the suspension proposal, the articles you cite as the basis for your claims as published in the *Journal of Pest Science* in 2012 and *Bioscience* in 2013 were published with ARS approval.

You further claim that improper reprisal against you began “in earnest” within one week of your press interview with the *Boulder Weekly* in March 2014 about the risks of RNAi, in addition to your participation as a reviewer for a report by the Center for Food Safety (CFS) which was critical of the overuse of pesticides. You cite as an example of this reprisal Plains Area Director, Dr. Laurence Chandler’s, caution to you on March 27, 2014 about not speaking to the press about sensitive issues without prior approval from the Area Office or the Information Staff. As you know, this is standard protocol for dealing with the media on sensitive issues.

Your assertion that Dr. Papiernik targeted you after March 2014 by initiating a misconduct investigation about you is also without merit. The facts support that this investigation arose from a complaint about your behavior in the lab from an employee at the NCARL. Dr. Papiernik appropriately referred this complaint to Personnel and Labor Solutions (PALS) for guidance. Through the investigation of this matter, you admitted to engaging in the behavior complained about and the imposition of a three (3) day suspension against you for it appears not only warranted, but lenient. Similarly, the record reflects that the Letter of Reprimand issued to you in May 2014 was based upon your clear violation of Dr. Papiernik’s instructions that no employees connect their personal computers to the ARS network. This restriction is based upon established ARS policy.

Additionally, you contend that the proposed 30-day suspension is another example of retaliation for your filing the Scientific Integrity complaint with Drs. Kay Simmons and Gita Ramaswamy in September 2014. Significantly, Dr. Simmons did not advise Drs. Papiernik, Michael McGuire or Chandler about your complaint. Further, Dr. Ramaswamy retired from USDA in June 2014, so she never received your complaint. Thus, these officials could not have been motivated by retaliatory animus against you since they were unaware of your complaint.

Finally, you allege that the timing of the proposed 30-day suspension, so close in time to your findings on monarch butterflies, “is clear retaliation against me for the content of my scientific research.” The record does not support your contention. First, your supervisor, Dr. Papiernik, was aware of your research results on monarch butterflies and she knew that you would be discussing that research during your presentation at the Entomological Society of America annual meeting in November 2014; yet, Dr. Papiernik still approved your attendance. Your manuscript documenting and explaining this research was provided to Dr. Papiernik for review in December 2014. No evidence exists that Dr. Papiernik attempted to interfere with your publishing the manuscript or reporting on your research at the November annual meeting.

Nor is there evidence of a motive for Dr. Papiernik to retaliate against you for the findings of your research. It was only after you once more engaged in serious misconduct in March 2015 that Dr. Papiernik was again placed in the position of having to consider disciplinary action against you.

Therefore, after carefully reviewing the proposal, your written response, and the evidence relied upon, I find Charges 1, 2 (Specifications 2, 3 and 4), and Charges 3, 5, and 6 are sustained and fully supported by the preponderance of evidence. I find Charge 2 (Specification 1) and Charge 4 are not sustained due to the information on record and the explanation you provided in your response.

Having sustained all the charges against you except Charges 2 (Specifications 1) and Charge 4, I reviewed the proposed penalty. In making my penalty determination, I considered all available evidence including the nature and seriousness of your offenses. The charges against you are very serious, particularly the falsification and travel-related charges. You are required to follow agency Policies and Procedures for requesting official travel. The frequency with which you travel also makes this a serious issue. Your providing false information about this matter raises concerns about your judgment and whether you can be relied upon to carry out your duties honestly in the future. I considered your past disciplinary action. On May 5, 2014, you received a Letter of Reprimand for failure to follow supervisory instructions. Additionally, from October 28 through 30, 2014, you served a 3-day suspension for conduct unbecoming a federal employee.

I considered Dr. Papiernik's confidence in your ability to perform assigned duties. Your repeated failure to follow federal standards of conduct results in an erosion of Dr. Papiernik's confidence and trust in you to perform your duties as assigned.

I considered your position and your employment as a Federal employee for approximately ten (10) years. I considered the clarity of notice. On January 26, 2015 and February 5, 2015, Dr. Papiernik put you on notice that advance authorization was required for all travel. I considered your potential for rehabilitation. You continue to not follow Policies and Procedures and supervisory instructions despite clear guidance. Your continuing to engage in misconduct despite the imposition of previous disciplinary action suggests a low potential for rehabilitation.

I considered the adequacy and effectiveness of alternative sanctions to deter you from engaging in misconduct in the future. I do not think any lesser penalty will deter such conduct in the future because despite the imposition of previous progressive disciplinary actions, you continue to not follow Policies and Procedures established by the Agency. In the past 18 months, you received a Letter of Reprimand and served a three (3) day suspension, in part, for not following Policies and Procedures. I believe that the imposition of a more lengthy suspension is necessary to impress upon you the seriousness of your misconduct and the need for you to change your behavior.

I considered your job performance has been at least at the fully successful level. I also considered your written response in which you offered various rationales to explain your misconduct. However, your fully successful job performance and the explanations you provided to counter the charges do not outweigh your blatant disregard for Agency rules and regulations.

After considering your written response and the entire evidence file, it is my decision to mitigate the proposed 30 day suspension to a fourteen (14) day suspension without pay, I find that a 14 calendar day suspension is within the parameters of the Agency's Table of Disciplinary Penalties found in REE Policies and Procedures 461.5. A 14 day suspension is also consistent with

discipline imposed upon other employees for similar infractions.

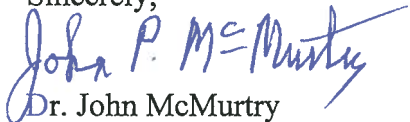
During the effective dates of the suspension, August 16, through August 29, 2015, you are not to report to your official duty station at any time. You must return to work on Monday, August 31, 2015, ready, willing, and able to perform the required duties of your position.

I have determined that this action is necessary to promote the efficiency of the service by stressing to you that the Agency does not condone your misconduct and to deter you from engaging in this type of misconduct in the future. Additional misconduct will not be tolerated and may result in disciplinary action, up to and including your removal from the Federal service.

You may grieve this decision in accordance with the grievance provisions outlined in REE Policies and Procedures (P&P), 463.2, Administrative Grievance System, dated June 4, 2001. Any grievance must be presented within fifteen (15) calendar days following the effective date of your suspension.

If you have questions regarding the contents of this letter or if you do not understand the appeal procedure, please contact Mr. Augustus Pasha, Human Resources Specialist, PALS on 301-504-7251, during normal business hours.

Sincerely,



Dr. John McMurtry
Associate Area Director, Plains Area

cc: S. Papiernik, ICSRU
A. Pasha, HRD

