

Congress of the United States

Washington, DC 20515

July 5, 2000

Mr. David M. Walker
Comptroller General
General Accounting Office
441 G Street, N.W., Room 7125
Washington, D.C. 20548

Dear Mr. Walker:

We are writing to request that GAO evaluate allegations of fraud raised by Dr. Nira Schwartz in her *qui tam* case (#CV96-3065) concerning critical test results related to the Department of Defense's (DOD) National Missile Defense (NMD) program.

In 1996, Dr. Nira Schwartz, a former employee of TRW, Inc., filed a lawsuit under the federal False Claims Act alleging that TRW had falsified information provided to DOD about the capabilities of computer algorithms designed to allow an anti-missile interceptor to discriminate between enemy warheads and decoys. Dr. Schwartz also alleged that detailed information about the characteristics of warheads and decoys used in flight tests were improperly provided to the interceptors prior to those tests, and that test flight data was wrongly manipulated in post-flight analysis.

Dr. Schwartz's allegations were reviewed by two panels, one at the Nichols Research Corporation of Huntsville, Alabama and the other (the Phase One Evaluation Team, or POET) comprised of individuals from the Massachusetts Institute of Technology's Lincoln Lab, the Lawrence Livermore National Laboratory and the Aerospace Corporation. The Department of Justice (DOJ) based its decision not to intervene in Dr. Schwartz's False Claims Act lawsuit at least in part on the findings of these panels. However, it has been alleged that the institutions represented on the panels, all of them apparently DOD contractors or subcontractors, may have had a conflict of interest with respect to the NMD program.

It has also been alleged that DOJ relied on other information which was not accurate. This included a statement attributed to Dr. Schwartz but denied by her as a misrepresentation, and an alleged conversation between DOD's Defense Criminal Investigation Service (DCIS) investigator Samuel W. Reed and Army investigators, but denied by Reed as having never happened.

DCIS conducted a three year investigation of Dr. Schwartz's allegations. Their final report, issued in August 1999, raised legitimate questions about NMD technologies and concluded that "numerous technical discrepancies ... warrant further review." It has been alleged that these discrepancies were not adequately examined.

As the principal House and Senate sponsors of the 1986 False Claims Act amendments, we have a longstanding and serious concern about fraud in federal government programs. To

date, the *qui tam* provisions of these amendments have resulted in cases that have returned over \$3 billion to the federal Treasury. If the alleged fraud in Dr. Schwartz's case is proven, it could result in the largest *qui tam* case in history. In addition, such a fraud could have serious policy implications.

In our view, Dr. Schwartz and others have raised enough questions about the integrity of TRW's work on the NMD program to merit a GAO investigation. It is absolutely essential that the DOJ have unbiased information on which to make a judgement about intervention in Dr. Schwartz's False Claims Act lawsuit.

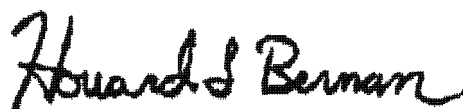
Specifically, we would like GAO to conduct an investigation that includes finding answers to the following questions:

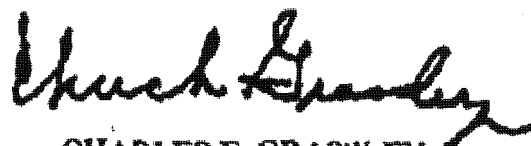
1. Did TRW or any related party falsify or cover up test data, computer algorithm results, or any other relevant information?
2. Were the panels charged by DOD to evaluate Dr. Schwartz's allegations truly independent and unbiased?
3. Did the Department of Justice rely on accurate information when they decided not to intervene in this case?

Given the complex nature of this issue, we urge you to seek technical assistance from reputable national bodies such as the American Physical Society and the National Academy of Sciences. We also suggest that you draw on the resources of agencies like the Congressional Budget Office and the Congressional Research Service. Finally, given that this investigation involves serious allegations of fraud, we suggest that you consider involving GAO's Office of Special Investigations and the Office of the General Counsel.

We appreciate your attention to this matter, and we look forward to discussing it with you further.

Sincerely,


HOWARD L. BERMAN
Member of Congress


CHARLES E. GRASSLEY
United States Senator