
UNITED STATES DISTRICT COURT

District of Kansas

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-20052-01-JAR

FENG TAO,

Defendant.

GOVERNMENT’S NOTICE OF EXPERT TESTIMONY
(Fed. R. Crim. P. 16[a][1][G])

COMES NOW the United States of America, by and through Anthony W. Mattivi, Assistant United States Attorney for the District of Kansas, and Benjamin J. Hawk, Trial Attorney for the Counterintelligence and Export Control Section of the U.S. Department of Justice’s National Security Division, and hereby provides the following notice of proposed expert testimony, in accordance with Federal Rule of Criminal Procedure 16(a)(1)(G) and the order of this Court.

Dr. Robert Spalding, III,
Brigadier General, United States Air Force (Ret.);
Senior Fellow, Hudson Institute

A. Qualifications: Dr. Spalding is currently a senior fellow at the Hudson Institute, where his work focuses on U.S.-China relations, economic and national security, and the Asia-Pacific military balance. He retired from the U.S. Air Force as a brigadier general after more

than 25 years of service. He is a former China strategist for the chairman of the Joint Chiefs of Staff and the Joint Staff at the Pentagon, as well as a senior defense official and defense attaché to China. He earned his doctorate in economics and mathematics from the University of Missouri. He is a distinguished graduate of the Defense Language Institute and is fluent in Mandarin.

Dr. Spalding has written extensively on national security matters. His book, STEALTH WAR : HOW CHINA TOOK OVER WHILE AMERICA'S ELITE SLEPT (Portfolio; 2019) is an executive summary of his work countering Chinese Communist Party influence. He has been published in The Washington Post, The Washington Times, Foreign Affairs, The American Interest, War on the Rocks, FedTech Magazine, Defense One, The Diplomat, and other edited volumes. His Air Power Journal article on America's Two Air Forces is frequently used in the West Point curriculum. He has been interviewed on FOX News and CNBC, as well as numerous radio and YouTube channels, both nationally and internationally. His additional qualifications, training, publications, presentations, awards, and other relevant experience are listed in the two biographies that are attached as Exhibit A.

B. Bases and Reasons for Opinion: The opinions expressed by Dr. Spalding have been formulated from a combination of his professional experience, his training and education, first-hand knowledge he obtained both working on relevant issues and during time spent in China, and research he has conducted for his book and various other publications. His testimony will be based on his years of studying the Chinese Communist Party and its approach to the acquisition and transfer of technology and scientific research, including its use of talents plans for that purpose. Over his years of relevant experience, Dr. Spalding has reviewed countless reports, articles, Chinese government statements, and other materials regarding this topic

(indeed, there are few other ways for anyone not personally associated with the Chinese government to develop expertise in this area).

C. Opinion: Dr. Spalding is expected to testify about the Chinese Communist Party's (CPC) strategy for acquiring technology and scientific research, as well as original ideas and intellectual property, from foreign sources, including U.S. sources, and the role that Chinese universities and other entities play in that strategy. He is also expected to testify about the role that talent plans, such as the Chang Jiang Scholar Program, play in that strategy. He is expected to testify about the financial and reputational benefits conferred on talent plan participants by the CPC and Chinese government officials. He is expected to testify about how the CPC incentivizes talent plan participants to benefit personally while also benefitting China and the CPC and defrauding the foreign source. He is expected to testify that the CPC and Chinese government employ talent plans to obtain technology and scientific research, even though they are aware that it results in defrauding the foreign entity of technology, scientific research, and funds, and causes economic damage to the victim of such fraud, including to U.S. government entities and universities. He is expected to testify that certain exhibits introduced at trial are consistent with the defendant's participation in one or more Chinese talent plans.

Dr. Spalding's testimony will address: how Chinese talent programs can create incentives to defraud U.S. government entities and universities (relevant to motive and to the defendant's intent to defraud); why access to proprietary information, scientific research, and grant funds from U.S. sources might enhance, rather than decrease, the likelihood of a Chinese talent program application being successful (relevant to motive and to the defendant's intent to defraud); the prestige associated with being awarded a Chinese talent program position (relevant to motive and to the defendant's intent to defraud); the financial benefits associated with being

awarded a Chinese talent program position (relevant to motive and to defendant's intent to defraud); and that Chinese talent programs are part of the Chinese government's attempts to dominate the world markets, including by obtaining talent working inside the United States (relevant to defendant's knowledge and intent to defraud).

The government reserves the right to amend this list both prior to and during trial.

Respectfully submitted,

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UNITED STATES ATTORNEY

s/ *AW Mattivi*

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2020, I caused the foregoing pleading to be filed with the Clerk of the Court, with a true and accurate copy provided to each counsel of record in the case.

AW Mattivi
Anthony W. Mattivi