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INTELLECTUAL CHAIN GANG

By LEON JAROFF; WILLIAM DOWELL/TAMPA

Petr Taborsky doesn't fit the part of a hardened convict. Born into a Czech family that immigrated to the U.S. when he was six, he is articulate and soft-spoken, an idealistic 34-year-old science nerd who hopes someday to conduct cancer research. He is also principled and somewhat stubborn--so stubborn, in fact, that the state of Florida put him on a chain gang last year, and now holds him in a minimum-security facility.

His crime? In a case with widespread implications for universities increasingly dependent on corporate research grants, he was jailed for "stealing" his own notebooks and ideas and then refusing a judge's orders not to exploit them. He is fighting for what he believes are the intellectual property rights of thousands of faculty members and graduate students.

Taborsky's Kafka-like ordeal began in 1987, when as a student at the University of South Florida, he took an \$8.50-an-hour lab-assistant job to help pay his tuition. He was assigned to a \$20,000 project contracted by a subsidiary of Florida Progress, a local power company, to determine if bacteria can be used to extract ammonia from clinoptilolite, a clay used in filtering water. The clay, similar to Kitty Litter, absorbs ammonia from water and can be cleaned and used over and over.

Unfortunately, the clay also absorbs calcium, and in the cleaning process used by the power company, the calcium forms a sludge that clogs the machinery. If bacteria were used for the cleanup, the company reasoned, only the ammonia would be extracted, and the problem would be solved.

It soon became apparent, however, that the bacterial approach wouldn't work, and the project was terminated. Taborsky's supervisor, Professor Robert Carnahan, assigned him to menial jobs in the lab and, because the Florida Progress grant had terminated, began paying him from other budgets.

Still, Taborsky remained intrigued by the clinoptilolite challenge and continued tinkering with the clay after hours--eventually stumbling onto what he thought might be the answer. Ever inquisitive, he had been heating the clay and charting its behavior to determine how much its absorption diminished with increasing temperatures. One day, while looking at his graphs, he discovered that above 1,500 [degrees] F the clinoptilolite starts rejecting calcium.

At that temperature, Taborsky concluded, the small pockets in the clay that absorb calcium close down while the ones that accept ammonia remain open. By spring 1988, he had gathered enough data to make his case to Carnahan and a Florida Progress representative, who told him that his idea could be "worth

millions."

And what might his share be? Taborsky asked. "Nothing," said Carnahan, explaining that under terms of the Florida Progress contract, the process he had developed belonged to the company. But Carnahan proposed a consolation prize. If Taborsky would voluntarily turn the rights of his discovery over to Florida Progress, the company would offer him a staff job.

Taborsky would not be bought. Taking his notebooks with him, he dropped out of school and delegated his newly wed wife Jennifer to field a barrage of frantic calls from Carnahan, who finally asked the university police to confiscate Taborsky's notes. The university, concerned that Taborsky's recalcitrance might set a precedent, filed criminal charges, accusing him of grand theft of trade secrets. Says Noreen Segrest, the school's general counsel: "It is irrelevant to us who invented [the process]. We own it."

The 1990 jury trial was, in Jennifer's view, a "massacre." "It was like a movie," she says. "They butchered him on the stand." Found guilty of theft--despite the fact that both the ideas and notebooks were his--Taborsky was given a year's suspended sentence, a year under house arrest and 15 years' probation. And, the judge ordained, he was forbidden to use or profit from his notes or his invention.

Despite the court's admonition, Taborsky on the very next day defiantly filed for a patent. Nine months later, having pored over Taborsky's notebooks, Carnahan and a Florida Progress officer filed for the same patent. But the U.S. Patent Office in 1992 granted two patents to Taborsky. Infuriated, the university appealed to the district court judge, who ordered Taborsky to assign his patents to the university or be sent to prison. When Taborsky balked, he was sentenced to 3 1/2 years. Jennifer, exhausted by the legal battles, left him. "I decided that the case was more important than our marriage," says Taborsky.

Finally, last year, his appeal to a higher court turned down, Taborsky was sent to a minimum-security facility, where for two months he was kept in shackles, clearing brush. Now scheduled for release in April, he has refused an offer of a pardon by Florida Governor Lawton Chiles. Accepting the offer, he says, would mean admitting he is guilty, and he is confident that he will eventually be vindicated. Despite his travails, he says, "I'm seeking justice and seeking the truth. I believe in the system of justice in the United States."

--Reported by William Dowell/Tampa

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