



Request under the Virginia Freedom of Information Act

September 29, 2015

Conflict of Interests Director or
VFOIA/Public Information Officer
Office of the Secretary of the Commonwealth

BY ELECTRONIC MAIL — margaret.sacks@governor.virginia.gov

**Re: Public Records Request – Statements of Economic Interest for GMU
Faculty Jagadish Shukla, Paul Dirmeyer, Ed Maibach, James Kinter**

Dear Ms. Sacks/VFOIA Officer,

With the Competitive Enterprise Institute (CEI) and as a resident of Albemarle County, Virginia, pursuant to the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, I request you please provide us within five working days **copies of any Statements of Economic Interests for George Mason University (GMU) faculty, Jagadish Shukla, Paul Dirmeyer, Ed Maibach, James Kinter for 2011, 2012, 2013, 2014 and 2015.**

We make this request following up several reports that GMU faculty member Prof. Jagadish Shukla is paying himself, through a largely taxpayer-funded non-governmental organization, nearly three hundred thousand dollars per year (\$292,688)¹ for part-time

¹ “Research in the Areas of Climate Variability, Climate Predictability and Climate Changes.” <http://www.guidestar.org/FinDocuments/2014/521/761/2014-521761388-0b7d49e1-9.pdf>. With his spouse both compensations from this organization come to \$438,733. According to at least one published source, two Shukla daughters also appeared on the group’s payroll. See Tony Thomas, “The Warmists’ Golden Fleece”, Quadrant, September 27, 2015, <http://quadrant.org.au/opinion/qed/2015/09/warmists-golden-fleece/>.

work that is apparently quite similar to his work as GMU Professor and Director of its Climate Dynamics Program,² for which he is paid between \$250,866 and \$314,000.³

Apparently similar situations exist for other GMU faculty involved in an effort organized by Prof. Shukla — through Shukla’s group if all in their capacities as GMU faculty. Together these faculty urge the Department of Justice to initiate criminal investigation, under the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), of parties who disagree over the subject of their related and highly lucrative full- and part-time work: Paul Dirmeyer’s (\$112,500 GMU salary in 2013) CV reflects an affiliation with the Center for Ocean-Land-Atmosphere Studies (COLA), which seems to be an entity of Prof. Shukla’s foundation⁴; George Mason communications professor Ed Maibach (\$171,912) is also director of its Center for Climate Change Communication.

“In addition, Shukla’s long-time associate, James Kinter” — who did not sign the letter seeking RICO investigation — “participated in the same double dip, though on a less grandiose scale. Kinter, also a Professor at George Mason, doubled his 2014 university salary of \$180,038 with \$171,320 from IGES, for a total 2014 income of \$351,358.”⁵

We note the following in affirming the strong public interest in the requested records:

“The University looks favorably on appropriate consulting work by faculty members insofar as it does not interfere with full, proper, and effective performance of faculty duties and responsibilities. Outside employment and paid consulting cannot exceed the equivalent of one day per work week without written authorization from the collegiate dean or institute director. **Faculty may be required to document outside employment to insure compliance with these requirements.** Although faculty members are state employees, they consult as private individuals, and the University is not responsible for their work outside the University. **When consulting, faculty members should take care to preserve the distinction between projects undertaken through individual initiatives and projects sponsored or officially sanctioned by the University. Outside business interests must not violate the Commonwealth's conflict of interest laws [https://vacode.org/2.2-3100/ https://vacode.org/23-38.96/] ... or the University's two conflict of interest policies: 4001, Financial Conflicts of**

² <https://cos.gmu.edu/aoes/profile-jagadish-shukla/>.

³ Stephen McIntyre, “Shukla’s Gold”, Climate Audit, September 28, 2015, <http://climateaudit.org/2015/09/28/shuklas-gold/>.

⁴ Shukla runs the Institute for Global Environment and Society (IGES). Thomas, “The Warmists’ Golden Fleece”, Quadrant, September 27, 2015, “Research scientists at COLA pick up pay of around \$US125,000-130,000, according to the foundation’s tax filings.”

⁵ Stephen McIntyre, “Shukla’s Gold”.

Interests in University Contracts with Businesses under Virginia Law at <http://universitypolicy.gmu.edu/policies/financial-conflicts-of-interest-in-university-contracts-with-businesses-under-virginia-law/> and 4010, Financial Conflicts of Interest in Federally Funded Research at <http://universitypolicy.gmu.edu/policies/financial-conflicts-of-interest-in-federally-funded-research/>.

George Mason University Faculty Handbook - July 1, 2014, 2.10.7 Outside Employment and/or Business Interests, p. 49 of 62 (bold added).

Also:

General Prohibitions Virginia Code §2.2-3103.

These prohibitions do not require a personal interest, and there are no exceptions.

You are prohibited from accepting or soliciting money or anything of value, regardless of the amount, for:

- 1) Performing your official duties (salary and remuneration for actual expenses excepted)...
- 3) Obtaining a contract for any person or business...
- 5) Accepting any money, loan, gift favor, service or business or professional opportunity reasonably tending to influence you in the performance of your duties.

We also note GMU's Conflict of Interest Act Quick Guide:

COIA QUICK GUIDE

The State and Local Government Conflict of Interests Act ("Act"), Virginia Code §2.2-3100, et seq., is applicable to you as a University employee...

Statement of Economic Interests Virginia Code §2.2-3117.

Some employees are required to annually file a Statement of Economic Interests with the Secretary of the Commonwealth. This is a public document. While the form is not a model of clarity, the general guidance is that when in doubt, disclose.

WARNING: The Act has criminal and civil sanctions. Virginia Code §2.2-3120, et seq.

<http://hr.gmu.edu/policy/docs/COIAQuickGuide.pdf> (italics added, bold in original)

We ask that you please provide responsive documents in electronic format, and in complete form, with any appendices or attachments as the case may be. We do not seek duplicates of responsive records.

As you are aware, Va. Code § 2.2-3704 (B) requires your office to provide a response within five days. Such a response can take several forms:

- 1) Pursuant to § 2.2-3704 (B)(1), you can withhold all responsive records, but only if you “identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.”
- 2) Pursuant to § 2.2-3704 (B)(2), you can provide the records in part and withhold them in part, but only if you “identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.”
- 3) Pursuant to Va. Code § 2.2-3704(B)(3), you can claim that no records exist.
- 4) Pursuant to Va. Code 2.2-3704(B)(4), you can claim an extra seven days are needed to make one of the responses delineated in ##1-3, above.

Va. Code 2.2-3704(F) allows a public body to “make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.” The statute does not allow a public body to charge for a mere determination that records are exempt and therefore withheld pursuant to Va. Code § 2.2-3704 (B)(1), in which case the public body must nevertheless identify the volume of the records it is withholding and the statutory basis for doing so. Similarly, your office may claim it has no responsive records pursuant to § 2.2-3704 (B)(3). It may not, however, charge for such a response.

Waiver of any costs is in the public interest, in that the principal purpose of the request is to access and disseminate information to the general public and is not for the principal purpose of personal or commercial benefit. Neither requester has any commercial interest in obtaining the requested information. Instead, we intend to use the requested information to inform the public, so the public can meaningfully oversee the use of public resources. Regardless, I authorize charges of up to \$50.00 in advance. Please do not hesitate to contact me with any questions.

Sincerely,



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