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THE ARMY AND NAVY CLUB BUILDING SUITE 1100 1627 I STREET, NW WASHINGTON, DC 20006-4007
202.912.4800 800.540.1355 202.912.4830 FAX www.cozen.com

August 21, 2012

John B. Williams

VIA E-MAIL AND CERTIFIED MAIL

Direct Phone 202-912-4848
jwilliams@cozen.com

Fred L. Smith, Jr.
President and Founder
Competitive Enterprise Institute
1899 L Street, NW
Washington, DC 20036
fsmith@cei.org

Dear Mr. Smith:

The purpose of this letter is to put you on formal notice of the defamatory content of a recent post that was published on the Competitive Enterprise Institute's blog "OpenMarket.Org", regarding my client Michael Mann, and to demand a full retraction and an apology. We also demand that the publication be removed immediately.

A copy of the defamatory publication is attached to this letter. It is entitled "The Other Scandal In Unhappy Valley," and was authored by an individual named Rand Simberg. The article makes the false allegation that Dr. Mann has engaged in "academic and scientific misconduct" an allegation which, of course, is defamatory per se. Further, the publication states that Dr. Mann "engaged in data manipulation" and has behaved "in a most unscientific manner."

The allegations of misconduct and data manipulation are false, and were clearly made with the knowledge that they were false. It is well known in the scientific community, and certainly well known to you and Mr. Simberg, that there have been numerous investigations into the issue of academic fraud in the wake of the disclosure of certain e-mails from the Climactic Research Unit of the University of East Anglia, and that every one of these investigations has concluded that there is no basis to these allegations and no evidence of any misconduct or data manipulation. To wit:

1. In February 2010, the Pennsylvania State University released an Inquiry Report which found that "there exists no credible evidence that Dr. Mann had or has ever

engaged in, or participated in, directly or indirectly, any actions with an intent to suppress or to falsify data."

2. In March 2010, the House of Commons Science and Technology Committee of the United Kingdom published a report finding that the criticisms of the Climate Research Unit were misplaced and that its actions "were in line with common practice in the climate science community."

3. In April 2010, the University of East Anglia set up a Scientific Assessment Panel, in consultation with the Royal Society and chaired by Professor Ron Oxburgh. The report of the panel assessed the integrity of the research published by the Climatic Research Unit and found "no evidence of any deliberate scientific malpractice in any of the work of the Climatic Research Unit."

4. In June 2010, the Pennsylvania State University published their Final Investigation Report, determining "there is no substance to the allegation against Dr. Michael E. Mann."

5. In July 2010, the University of East Anglia published the Independent Climate Change Email Review report. They examined whether manipulation or suppression of data occurred and concluded that "the scientists' rigor and honesty are not in doubt."

6. In July 2010, the U.S. Environmental Protection Agency investigated certain emails that supposedly formed the basis of the allegations against Dr. Mann and "found this was simply a candid discussion of scientists working through issues that arise in compiling and presenting large complex data sets."

7. In September 2010, the United Kingdom government responded to the House of Commons Science and Technology Committee report, chaired by Sir Muir Russell. On the allegation of attempting to corrupt the peer-review process, they found that the "evidence that we have seen does not suggest that Professor Jones (of the Climatic Research Unit) was trying to subvert the peer review process. Academics should not be criticized for making informal comments on academic papers."

8. In February 2011, the Department of Commerce Inspector General conducted an independent review of the emails and found "no evidence in the CRU emails that NOAA inappropriately manipulated data."

9. In August 2011, the National Science Foundation, performing a follow-up independent review of charges of misconduct against Dr. Mann, found no research misconduct or other matter raised by the various regulations and laws discussed above. The NSF further stated that the case against Dr. Mann was closed.

Yet despite the fact that the case against Dr. Mann has been thoroughly investigated—and closed—your article nevertheless accuses him of academic and scientific misconduct. Further, while I was pleased to see that the editor of the blog post has removed two sentences

making the direct comparison between Dr. Mann and Jerry Sandusky, the fact remains that Mr. Simberg's entire blog post equates the actions of Dr. Mann with those of a convicted child molester. This insidious equivalence and the now-removed references are simply outrageous, and clearly subject your publication to a claim of intentional infliction of emotional distress. Moreover, the damage from the original post, claiming that "Mann could be said to be the Jerry Sandusky of climate science, except that instead of molesting children, he has molested and tortured data . . ." has already been done – to date Mr. Simberg's original words have been republished on at least one other website.

Needless to say, we intend to pursue all appropriate legal remedies on behalf of Dr. Mann. We further demand that you take all steps to preserve any and all documents related to these publications and to Dr. Mann. Finally, we reiterate our demand that this defamatory article be immediately removed from further publication, and that you issue a retraction of this article and an apology to Dr. Mann.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "JB Williams", with a long horizontal line extending to the right.

JOHN B. WILLIAMS

Enclosure

cc: Michael E. Mann

openmarket.org

The Other Scandal In Unhappy Valley

by [Rand Simberg](#) on July 13, 2012 · [55 comments](#)

in [Global Warming](#), [Transparency](#)

So it turns out that Penn State has covered up wrongdoing by one of its employees to avoid bad publicity.

But I'm not talking about the appalling behavior uncovered this week by the Freeh report. No, I'm referring to another cover up and whitewash that occurred there two years ago, before we learned how rotten and corrupt the culture at the university was. But now that we know how bad it was, perhaps it's time that we revisit the Michael Mann affair, particularly given how much we've also learned about his and others' hockey-stick deceptions since.

To review, when the emails and computer models were leaked from the Climate Research Unit at the University of East Anglia two and a half years ago, many of the luminaries of the "climate science" community were shown to have been behaving in a most unscientific manner. Among them were Michael Mann, Professor of Meteorology at Penn State, whom the emails revealed had been engaging in data manipulation to keep the blade on his famous hockey-stick graph, which had become an icon for those determined to reduce human carbon emissions by any means necessary.

As a result, in November of 2009, the university issued a press release that it was going to undertake its own investigation, independently of one that had been launched by the National Academy of Sciences (NAS) in response to a demand from Congressman Sherwood Boehlert (R-N.Y.). In July of the next year, the panel set up to investigate declared him innocent of any wrongdoing:

Penn State Professor Michael Mann has been cleared of any wrongdoing, according to a report of the investigation that was released today (July 1). Mann was under investigation for allegations of research impropriety that surfaced last year after thousands of stolen e-mails were published online. The e-mails were obtained from computer servers at the Climatic Research Unit of the University of East Anglia in England, one of the main repositories of information about climate change.

The panel of leading scholars from various research fields, **all tenured professors at Penn State**, began its work on March 4 to look at whether Mann had "engaged in, directly or indirectly, any actions that seriously deviated from accepted practices within the academic community for proposing, conducting or reporting research or other scholarly activities."

My emphasis.

Despite the fact that it was completely internal to Penn State, and they didn't bother to interview anyone except Mann himself, and seemingly ignored the contents of the emails, the warm mongers declared him exonerated (and the biggest victim in the history of the world). But many in the skeptic community called it a whitewash:

This is not surprising that Mann's own university circled the wagons and narrowed the focus of its own investigation to declare him ethical.

The fact that the investigation cited Mann's 'level of success in proposing research and obtaining funding' as some sort of proof that he was meeting the 'highest standards', tells you that Mann is considered a sacred funding cash cow. At the height of his financial career, similar sentiments could have been said about Bernie Madoff.

Mann has become the posterboy of the corrupt and disgraced climate science echo chamber. No university whitewash investigation will change that simple reality.

Richard Lindzen of MIT weighed in as well:

"Penn State has clearly demonstrated that it is incapable of monitoring violations of scientific standards of behavior internally," Lindzen said in an e-mail from France.

But their criticism was ignored, particularly after the release of the NAS report, which was also purported to exonerate him. But in rereading the NAS "exoneration," some words stand out now. First, he was criticized for his statistical techniques (which was the basis of the criticism that resulted in his unscientific behavior). But more importantly:

The OIG also independently reviewed Mann's emails and PSU's inquiry into whether or not Mann deleted emails as requested by Phil Jones in the "Climategate" emails (aka Allegation 2). The OIG concluded after reviewing the the published CRU emails and **the additional information provided by PSU** that "nothing in [the emails] evidenced research misconduct within the definition of the NSF Research Misconduct Regulation." Furthermore, the OIG accepted the conclusions of the PSU inquiry regarding whether Mann deleted emails and agreed with PSU's conclusion that Mann had not.

Again, my emphasis. In other words, the NAS investigation relied on the integrity of the university to provide them with all relevant material, and was thus not truly independent. We now know in hindsight that it could not do so. Beyond that, there are still relevant emails that we haven't seen, two years later, because the University of Virginia continues to stonewall on a FOIA request, and it's heading to the Supreme Court of the Commonwealth of Virginia.

~~Michael Mann, like Joe Paterno, was a rock star in the context of Penn State University, bringing in millions in research funding. The same university president who resigned in the wake of the Sandusky scandal was also the president when Mann was being whitewashed investigated. We saw what the university administration was willing to do to cover up heinous crimes, and even let them continue, rather than expose them. Should we suppose, in light of what we now know, they would do any less to hide academic and scientific misconduct, with so much at stake?~~

It's time for a fresh, truly independent investigation.

**Two inappropriate sentences that originally appeared in this post have been removed by the editor.*