

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 08-cv-02517-RPM

MURRY L. SALBY,

Plaintiff,

v.

PROVOST PHILIP DISTEFANO,

Defendants.

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**AFFIDAVIT OF PHILIP DISTEFANO**

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Affiant, **PHILIP DISTEFANO**, after being duly sworn, states as follows:

1. I am the Provost and Executive Vice Chancellor for Academic Affairs for the University of Colorado at Boulder. I have held this position since March 2001, with the exception that I served as Interim Chancellor for the Boulder campus from January 2005 until June 2006.

2. I have personal knowledge of the matters set forth in this Affidavit.

3. As Provost, I serve as the chief academic officer over an institution of higher learning that includes eight colleges and schools, over 29,000 students, and over 1,000 tenured and tenure-track faculty.

4. The Provost position includes many duties which are summarized in my job description. I hereby certify that attached to this Affidavit is a true and correct copy of the job description position statement of Provost. [See, Ex. A-2.] My duties require me to make many discretionary decisions on a regular basis. One of the more significant responsibilities derives

from my position as appointing authority and calls upon me to make final decisions regarding disciplinary actions concerning tenured faculty. In this regard, there are several faculty committees that report to me and make recommendations for any such discipline. One such committee is the Conflict of Interest Committee.

5. In early September of 2007, I received a report from the Conflict of Interest Committee concerning allegations that had been made against Professor Murry Salby relating to a failure to provide the Committee with conflict of interest information that it had requested. In essence, the Committee concluded that Professor Salby's inactions constituted significant violations of the University's conflict of interest policies and also made recommendations for corrective and disciplinary actions to be taken. This report was transmitted to me through Vice Chancellor of Research and Dean of the Graduate School Stein Sture who stated his concurrence with the Committee's recommendations.

6. Upon receipt of the Committee's report, I have the discretion to accept, reject, or modify the Committee's findings and recommendations. In the case of Professor Salby, I found the Committee's findings and recommendations to be well founded, and, accordingly, I accepted them.

7. On September 19, 2007, I forwarded correspondence to Professor Salby advising him that I had accepted the Committee's recommendations and explicitly advised him that the following corrective and disciplinary actions would take effect immediately: (1) that the University would not sign or submit any requests for funding (grants, contracts, etc.) on his behalf; (2) that any funds in his current and active research grants would be frozen; and (3) that he would be denied access to his research laboratory in the Department of Atmospheric and

Oceanic Sciences (“ATOC”). These measures were intended to compel Professor Salby to provide the information sought by the Committee. I further directed Professor Salby to supply the requested information to the Committee by October 1, 2007, in the absence of which the University could take further disciplinary action against him.

8. Thereafter, the implementation of the corrective and disciplinary actions was handled by representatives of the office of the Associate Vice Chancellor for Research and the ATOC Department.

9. The research funds that were frozen are under contract between the granting agencies and the University. As a result, those funds are the property of the University.

10. Laboratory space on the Boulder campus is also the property of the University and is allocated at the discretion of the Provost, Deans, and the other Vice Chancellors. Faculty and their departments are advised that they have no ownership interest in the research space that is allocated to them and instead such always remains subject to revocation or reassignment by the administration.

11. It was my understanding that Professor Salby was allowed access to the laboratory so that he could retrieve any personal property that was left there.

12. Before the actions of September 2007, I had no personal knowledge of Professor Salby’s activities, and to my knowledge I had never met him. In reviewing files, it appears that in or about 1998, I was indirectly involved in an issue concerning payment of some expenses relating to Professor Salby’s work that resulted from the division of two departments. I referred this matter back to the Associate Vice Chancellor for Research and Salby’s Dean for further handling. It is also possible that my office may have been copied on documents relating to

grievances that were filed by Professor Salby over the years. However, I have no personal recollection of having reviewed any such documents, and I have no knowledge of the circumstances surrounding those grievances. None of the actions taken by me in connection with the report from the Conflict of Interest Committee were in any way related to such grievances.

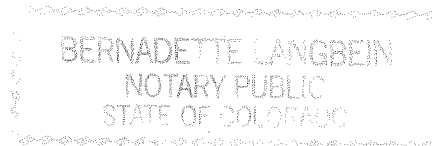
**FURTHER AFFIANT SAYETH NAUGHT.**

Philip DiStefano  
Philip DiStefano

STATE OF COLORADO            )  
  )ss.  
COUNTY OF Boulder            )

SUBSCRIBED AND SWORN to me before this 11<sup>th</sup> day of February, 2009, by Philip DiStefano.

By: Bernadette Langbein  
Notary Public  
My Commission Expires: 7/19/2011



**Provost and Executive Vice Chancellor for Academic Affairs  
University of Colorado at Boulder  
Position Number 150035  
(Phil DiStefano)**

The provost and executive vice chancellor for academic affairs is the chief academic officer for the Boulder campus. As such, the position is responsible for the:

- Direction and oversight of the instruction, research and creative work, and outreach activities of the campus
- Administration of academic policies and programs
- Fostering excellence in academic departments and divisions
- Recruitment, development and promotion of faculty, deans and other academic leaders
- Promotion of the student learning environment with an emphasis on collaboration between curricular and co-curricular programs and services
- Implementation of diversity plans for those units under the provost's jurisdiction
- Coordination of academic planning with budget preparation and capital development needs
- Allocation of resources to assure high quality academic programs, teaching, research and creative work, and service

Reporting to the provost are the:

- Deans of the schools and colleges
- Vice chancellor for student affairs and the student affairs division
- Vice chancellor for research
- Dean of Graduate School

The provost and executive vice chancellor is deputy to the Chancellor of the University of Colorado at Boulder and assumes the role of Chief Operating Officer in the Chancellor's absence. As a University officer and member of the Chancellor's Executive Committee, the provost duties include:

- Responsibility for all academic, arts, and research programs, including research institutes and centers
- Increasing the strength and vitality of the University's research and creative work, graduate, professional and undergraduate programs
- Working effectively and communicating with the chancellor, the vice chancellors, the deans and faculty to formulate Boulder campus long-range academic, student development, capital development and financial plans, including fundraising priorities and strategies
- Working collaboratively with CU System administrators and the Colorado Commission on Higher Education

Qualifications for the position include significant academic and administrative achievement and an ability to articulate the mission of teaching, research (and creative work) and service for the Boulder campus throughout Colorado and the nation. The successful candidate will have outstanding academic credentials consistent with those of senior CU-Boulder faculty and substantial administrative experience at the executive level of AAU or other major comprehensive universities. An understanding of the unique challenges facing public higher education is important, as is the ability to develop, articulate and implement strategic plans, the ability to work collaboratively and a record of success.