

KENNETH L. SCHULTZ, PhD

Complainant,

and

**AIR FORCE INSTITUTE OF
TECHNOLOGY**

Respondent.

AFFIDAVIT OF KENNETH L. SCHULTZ, PhD

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

KENNETH L. SCHULTZ, being first duly cautioned and sworn, deposes and says as follows, to-wit:

1. On November 10, 2011, I was appointed to the faculty of the Air Force Institute of Technology ("AFIT"). At the AFIT, I held the position of Associate Professor of Logistics and Supply Chain Management, ADD 23 15. I am an adult and I am, in all respects, competent to testify to all matters stated in this affidavit on the basis of personal knowledge, information provided to me by AFIT employees in the regular course of business, or on the basis of documents maintained by AFIT in the regular course of business.
2. Pursuant to the terms of my appointment, I was required to submit my application for tenure within approximately three years after the date of my appointment. As a condition of my continued employment at the AFIT, I was required to obtain tenure within four years after the date of my appointment. In November 2015, I submitted my application for tenure. While my tenure application was pending, I had applied for a job as a Tenured Associate Professor at Clemson University ("Clemson"). Clemson was willing to hire me with tenure. However, I was excited about the research opportunities at AFIT to work on Pilot Social Networks and Fuel Efficiency and was unwilling to leave that project for the package Clemson had offered.
3. After I submitted my application for tenure, the first step of the tenure application process was for the Department Committee to evaluate and vote on my application. The Department Committee vote is the vote that matters most for tenure decisions. Before 2011 there was controversy in the AFIT with the School Committee overturning some Department Committee decisions, and being criticized for making decisions on issues the School Committee were not qualified to assess. To address these concerns, the Standing Rules were rewritten in 2011 to

make it crystal clear that peers, internal and external, were persons with specialized knowledge and credentials to evaluate the sufficiency of academic qualifications for tenure. Internal peers are considered to be members of the Department. Since the revision of the Standing Rules, the School Committee has never overturned the recommendation of the Department Committee.

4. As part of the process, the Standing Rules required the selection of reviewers to assess my career contributions. First, a list of nine external reviewers must be prepared. The candidate (me), the Department Head, and the Department Committee were each responsible for proposing three of the potential reviewers to be included on the list. However, in my case the list of nine potential reviewers was never prepared and never posted for review. Dr. Cunningham, the Department Committee Chair, had omitted this step for previous tenure candidates reviewed by the Department of Operational Sciences. Dr. Cunningham knew that he could omit this step and cause any external reviewer he wanted to be selected, even though the external reviewer did not meet the requirements of the Standing Rules. Also, while waiting for external reviews, an article I had submitted to Management Science, the top journal in the field, went from “submitted” to “revise and resubmit.” I asked Dr. Cunningham to relay this information to the external reviewers, and he agreed to do so. I subsequently learned that Dr. Cunningham chose not inform the external reviewers of this important development.

5. To my understanding, Dr. Cunningham nominated Dr. David King as an external reviewer of my tenure application. Dr. Cunningham knew that it was improper to nominate a potential reviewer already known to have a negative opinion of a candidate, and knew that Dr. King was not qualified to perform this function. Nonetheless, Dr. King was selected as one of my external reviewers. Subsequently, when Dr. Cunningham was asked about whether the Department Committee had complied with the reviewer selection procedures, he lied and told the Review Committee that he had made the list of 9 potential reviewers and presented it for review.

6. Dr. King is not qualified to function as an external reviewer for someone in my field. Dr. King has a Ph.D. in Strategic Management, which is a completely different area of scholarship. While Dr. King does have a master’s degree in Logistics, more than a master’s degree is required to function as an external academic reviewer. Dr. King has been in three different academic departments. He and I were at Indiana University at the same time. He was in the “Management and Entrepreneurship Department” while I was in the “Operations and Decision Technologies Department.” When I interviewed at Iowa State Dr. King was in the “Management Department” while I was interviewing for the “Supply Chain and Information Systems Department.” Dr. King is currently at Florida State University. He is in the “Management Department.” If I were at FSU I would be in the “Business Analytics, Information Systems and Supply Chain Department.” At no point were either of us qualified to be in the other department. Dr. King does not perform research in Logistics and has not performed research in my area of Behavioral Operations Management. Dr. King does not perform research in my field, publish in the same journals, work on the same topics or attend the same conferences. I have been involved in at least two academic hiring searches at AFIT. The academic discipline of Dr. King has never been one of the areas listed in advertisements as a qualification for the open faculty positions at the

department. All of this information is available to the Review Committee if they had looked for it.

7. It is my understanding that at the time I submitted my tenure application, Dr. Cunningham had an established relationship with Dr. King. Previously Dr. King had received a Master's Degree from AFIT and I believe Dr. Cunningham was the only faculty member left at the school that he would have had classes with. Furthermore, I had also met Dr. King, when I interviewed for a position at Iowa State, where he was a faculty member (in a different department.) Dr. King had attended my research presentation. During my presentation, Dr. King made negative comments about my work, leaving me with the impression that he harbored a negative antipathy towards me. I believe Dr. King subsequently contacted Dr. Cunningham to discuss his negative feelings about my research. Given that Dr. King does not possess the academic qualifications to function as an external reviewer in my field, his relationship with Dr. Cunningham and his negative antipathy towards me explains his selection as one of my external reviewers.

8. When the Department Committee met to consider my tenure application, Dr. King's tenure evaluation letter was presented. In that letter, Dr. King accused me of academic misconduct, and misstated my accomplishments. Dr. King falsely accused me of academic misconduct by accusing me of lying on my CV on the basis of a typographic error, because my name had been omitted from a journal cover. The journal cover was for the special issue on Behavioral Operations Management for the Journal of Operations Management (JOM). When the special issue came out, the publisher mistakenly left my name off the cover of the journal. I am still listed as an editor online. (Tab 29) Dr. Bendoly was my coeditor. He readily acknowledges that I was a co-editor with him on that special issue. While even a cursory inquiry would have revealed there was no academic dishonesty, no such inquiry took place. All Dr. Cunningham had to do when he received the report from Dr. King was to ask either Dr. Bendoly or myself and we could have easily cleared up the issue. However, it was not the desire of Dr. King or Dr. Cunningham to clear up the issue. I was never allowed to read Dr. King's letter. My knowledge of the contents of the letter is from discussions with faculty members and statements in various documents including the School Committee and Review Committee reports.

9. The accusation that I had lied on my CV dominated the discussion of the Department Committee meeting. Based on Dr. King's false accusations and misstatements, the Department voted against my application for tenure. I was not informed of the Department Committee findings until a couple of days after the vote. It was only then that I found out I had been falsely accused of lying on my C.V. I immediately contacted Dr. Bendoly for confirmation of my work on the Special Issue and had email confirmation within 2 hours and a letter of confirmation the next day. Of the 9 voting members of the Department Committee one person did not believe the false accusations and voted in my favor. This was Dr. Johnson, one of the Professors in my field who was aware of my contributions to that field. One person, Dr. Deckro, stated objections to my not being allowed to defend myself, was ignored, and abstained from voting.

10. At the time of the Department Committee vote the Department Head, Dr. Pignatiello, was on compassionate leave burying a family member. He was put under pressure to write his tenure review letter while he was on compassionate leave. I sent an email to Dr. Pignatiello and Dr. Cunningham, asking Dr. Cunningham for the opportunity to meet with the Department Committee to rebut the false allegations. I asked for Dr. Pignatiello to meet with me before he wrote his letter, but he returned and wrote the letter before talking to me. Dr. Cunningham never responded to my request to meet with the Department Committee. When Dr. Pignatiello wrote his tenure review letter, he was not aware that Dr. King's charges were false. During our conversation after Dr. Pignatiello had written his letter, it became obvious that he had read Dr. King's illegal external review letter but had not read Dr. Roth's favorable external review letter. Dr. Roth's letter stated that I was qualified for tenure at Clemson, UNC Chapel Hill and Arizona State University. Dr. Roth's letter is available in Tab 4, the last letter in the tab.

11. Dr. Aleda Roth, The Burlington Industries Distinguished Professor in Supply Chain Management, was one of the two qualified reviewers asked for external letters during the tenure process. Dr. Roth is a qualified reviewer, she is familiar with my work and is a noted senior academic in my area. When Dr. Roth found out that I had been denied tenure at AFIT she was shocked. She sent me a copy of the letter she had written for my tenure packet. That letter is available in Tab 4, the last letter. The recommendation is very strong. Besides writing that I was qualified for tenure at Clemson, UNC and Arizona State, she verified the importance of Behavioral Operations Management and that I am a thought leader in that specialty.

12. In support of the Department Committee's vote against my tenure application, the Department Committee falsely reported that "He has not published any journal articles or conference papers while at AFIT." In 2014 I published a paper in the Proceedings of the Society of Applied Learning Technology, which was clearly listed in my C.V. available to the committee. The 2013 JOM article¹ is a journal article, consisting of an editorial published as an article in JOM. The Department Committee Report also demonstrates ignorance of the term "eds" in a citation. This shows the Report was falsified to include some items in the report that were not discussed during the Department Committee meeting. (Most people on the Department Committee know what "eds" means.)

13. In fact, my qualifications demonstrate that an evaluation of my tenure application in accordance with the standing rules would have resulted in the recommendation of my tenure application. The fact that I was an editor of a special issue of JOM, one of the top 4 journals in our field, is highly significant. Being an editor of a special issue recognizes expertise and leadership in that specialty. Being asked to write an editorial article in such a prestigious journal

¹ Croson, Rachel, Kenneth Schultz, Enno Siemsen, and Lisa Yeo. "Behavioral operations, the state of the field." *Journal of Operations Management*, Vol. 31, pp. 1-5, 2013. (Cited by 126.)

is a significant accomplishment, and is a recognition by the journal that you are a thought leader in that area. As such, editorial articles are not usually reviewed with the same process as other research papers. Editorial articles are reviewed by the editors, rather than other peers. The importance of editorials, indeed of any article, is in the effect of the editorial article on research in the field.

14. One way to assess the impact of an article of any kind is in the number of times the article is cited in the work of others. My 2013 JOM Article has already been cited 126 times. According to Scopus, the average CiteScore for JOM in 2017 was 6.13 and JOM was in the top 3% of journals. The 2017 citations for my JOM Article was 15. The 2018 CiteScore for JOM was 9.88. Our paper received 35 citations in 2018. <https://www.scopus.com/sourceid/19169>. The JOM Article is a significant contribution to the literature. Nonetheless, despite the significant impact of my 2013 JOM article on the field, the Department Committee disregarded my article, based on the type of article it was and how it was reviewed, ignoring my contribution to the field and my standing within the field. No other Logistics Professor has ever been asked to write an editorial article for a top journal while at AFIT. Other professors in the Department, in other fields, who have been invited to write an editorial for a top journal are all full Professors, have tenure and are recognized as having a leadership role in their areas.

15. After the Department Committee's decision not to recommend my tenure application, I was told multiple times by different people that I could withdraw my application for tenure, eliminating all the stress and hassle of pursuing the case. When I met with the Provost to discuss my case that was his theme, that I should leave as soon as I was able. When I asked for a Review Committee to be convened, I was told multiple times by different people that no Review Committee had ever been convened before. I was also told that it was not going to make any difference. Clearly the AFIT was sending me a message that the AFIT wishes to be perceived as a significant research college by the academic community, yet is frequently seen merely as another 'military degree mill.' As part of that, the AFIT prides itself on having a 'real, academic' tenure process and my actions to publicly challenge my tenure review would not go unanswered.

16. After the final School Committee recommendation, I asked to meet with Dr. Badiru, Dean, before he made his decision. He repeatedly stated that he was under no obligation to talk to me. When we did meet, he informed me that he was under no obligation to meet with me and that he had made his decision and forwarded it the day before. I told Dr. Badiru about the Department Committee meeting, the problems with the process, the false accusations, the negative bias and the lack of evaluation of my career contributions. I also requested that in the future, other tenure candidates should not be denied the opportunity to respond to allegations before the Department Committee votes. In response to my request that Dr. Badiru take corrective action in my case, he repeatedly stated that he would do whatever legal counsel required him to do, indicating that he had made his decision before legal review was complete.

17. Following the meeting with the Dr. Badiru, I asked to talk to the Provost, Dr. Sritharan, before he made his decision on the recommendation to deny my tenure application. I told Dr. Sritharan about the Department Committee meeting, the problems with the process, the false accusations, the negative bias and the lack of evaluation of my career contributions. I also requested that in the future, other tenure candidates should not be denied the opportunity to respond to allegations before the Department Committee votes. During the meeting Dr. Sritharan stressed that I should leave the University as soon as I could. He agreed that it was wrong for accusations of misconduct to be aired during the Department Committee meeting, indicating that legal review was now complete and that legal review agreed that such accusations should not have been raised.

18. Thereafter, I met with Dr. Stewart, Chancellor. I told Dr. Stewart about the Department Committee meeting, the problems with the process, the false accusations, the negative bias and the lack of evaluation of my career contributions. I also requested that in the future, other tenure candidates should not be denied the opportunity to respond to allegations before the Department Committee votes. Dr. Stewart agreed that the Department Committees should not discuss accusations of misconduct during the Department Committee meeting, and he told me that he would talk to the Provost about my case but I should not expect anything new.

19. In 2017 the Standing Rules were amended with the statement “If serious question about the vita arise, the candidate should if possible be given the opportunity to address the issue before the Department Committee takes its vote. Regardless, the candidate’s rights at that point in the process are given in Paragraphs 4.7 and 4.8.”

20. On January 10, 2017, I was teaching a class in my human behavior course. The class was intended to illustrate how bias influences decisions. I was focusing on how racial and sexual stereotypes lead to poor decisions. The stereotype I used during this class was the proposition that African-Americans have large feet. My intention was to take a sensitive subject and use an inoffensive stereotype to exhibit the significant impact that even non-pejorative stereotypes on what should supposedly be a rational thought process. In an out of class discussion with two African Americans at Syracuse University both men told me that stereotype was the only racial stereotype that didn’t offend anybody. During the class, Lt. Harold objected to my mentioning the stereotype. Immediately after class, I asked Lt. Harold if my use of the stereotype as an example had made her uncomfortable in class. She said that it had not, but that she thought the use was inappropriate.

21. I later learned that Lt. Harold had reported her concerns to the chain of command, which were the subject of a meeting on or about January 13, 2017. The meeting was held by Dr. Stewart, Chancellor. In attendance were Dr. Pignatiello and other members of my chain of command. During the meeting, Dr. Stewart stated that he had “zero tolerance” for such remarks, and he made it clear that he wanted me punished. On January 17, 2017, I received notice that disciplinary action was being considered, and that I was relieved of my classroom duties and

restricted from attending any lectures, seminars, thesis defenses or dissertation defenses. Dr. Pignatiello told me about the meeting with Dr. Stewart and his statement of the “zero tolerance” policy when he informed me that I was being suspended from teaching and was under investigation. He also informed me that I should not have made Dr. Stewart angry.

22. Once Dr. Stewart asserted his view that he had zero tolerance and that I should be punished, it became a matter of “The General wants ...”, which is common jargon in the USAF for disregarding any objections to actions the speaker directed to be taken. It is an expression to communicate the idea that a decision has been made, the course of action does not need to be further justified, and the direction needs to be fulfilled, quickly.

23. On Jan 17, 2017, when I was informed that I was under investigation and suspended from teaching, I asked to know what I was being charged with. Dr. Pignatiello said that, other than statements made in class, he did not know. When I asked if he would find out and let me know what I allegedly said he told me he would not. I did not find out what I was alleged to have said until 13 February when the Investigating Office finally interviewed me. I had asked for a copy of the allegations. At that point he informed me that he could not give me a copy of the allegations but he could read them to me. Although I had told him I would not be prepared to respond to the allegations until I had a chance to think about the charges, he proceeded to immediately pressure me to make a statement telling me that the report was due and any delay would delay the report.

24. When I finally found out what the allegations were, I was shocked to find out I had been accused of saying “high rho” in class on Jan 10. High rho is a term we use in Queueing Theory and it refers to high capacity utilization. We did not discuss Queueing Theory that day and I had no reason to use the term. I had used the term frequently in the previous quarter, when I taught Queueing Theory, but never in a manner to mock Asians. Since AFIT presumably interviewed everybody, and not a single person claimed I had said it, including Lt. Harold, that is not a “lack of evidence” but rather proof that the charge was false. Indeed, the charge was never true, had never been alleged, and AFIT knew it, but they charged me anyway. Since they continued to prosecute me on that charge, even after I pointed out what should have been obvious to them that there was no evidence, it became abundantly clear that it was not a simple mistake. What I did, or did not do, obviously had no bearing on the final outcome. To this day I am shocked and discouraged that so many people at AFIT would break their oath of office so callously.

25. The Notice does not charge me with violation of any regulation. Every time I asked for information on what regulation I had violated I was stonewalled. The list of regulations that the proceedings “were in accordance with” kept growing, to include, by reference, the entire 5 USC, but I was never told what I had violated. When I asked Dr. Pignatiello, the person recommending my suspension, what regulation he was accusing me of violating, he could not answer and referred me to Ms. Lee. It was very difficult to respond to the Notice without information on what regulation I had allegedly violated. I repeatedly asked, verbally and by email, for a copy of the Investigation (CDI) report. I was repeatedly denied. On 23 May, when Dr. Pignatiello

informed me of his proposal to suspend me I asked for a copy of the CDI report. He informed me that the five statements I was given were all the information that had been used to prepare the proposal. When I persisted, he informed me that I could ask Ms. Lee at base Human Resources for a copy of the report but told me that “You will never see it.” (or words to that effect.) The claim that the five statements were all that were used to prepare the action against me, and that I would not be allowed to see a copy of the CDI were later confirmed by Ms. Lee, base HR, by Dean Badiru, and by Chancellor Stewart.

26. Dr. Badiru dated his decision July 13 and ordered a suspension for July 18 and 19. AFIT was aware that I was away from the office on official Travel until the 17th, giving me only one day to prepare for the suspension. This is in direct violation of the regulation which requires a 10-day advance notice. When I asked Dr. Badiru why, after 6 months, the sudden rush he replied that it was done to stay within the 6-month requirement for disposal of EO Cases. In the end I was punished, allegedly, “to promote the efficiency of the service.” This is the Air Force way of saying “You did not violate any law or regulation but ‘the General wants you punished.’ It is very difficult to defend oneself against charges of “the General wants ...” I based my defense on ‘the general doesn’t really want’ to violate the Constitution, but obviously I was incorrect in that assumption.

27. Since being denied tenure I have applied for many jobs at a wide range of schools. However, because of AFIT’s denial of my tenure application, I have not received any offers. Schools are reluctant to hire someone who has a good research record but was denied tenure at a school such as AFIT. By denying me tenure, AFIT has made it tremendously difficult to find suitable employment. I also believe that some faculty members at AFIT have stated that AFIT denied my tenure application because questions were raised about the veracity of my C.V., or that I was found guilty of EO violations. In either case, this kind of “rumor” would end any chances of continuing my career.

FURTHER AFFIANT SAYETH NOT

Kenneth L. Schultz

Sworn to and subscribed before me on this ____ day of May, 2019.

Notary Public