

1 **SCHULER, BROWN & EKIZIAN**

2 JACK M. SCHULER, [REDACTED]

3 SAM D. EKIZIAN, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 DAVID A. FRENCH, *pro hac vice pending*

9 ABIGAIL A. SOUTHERLAND, *pro hac vice pending*

10 MICHELLE K. TERRY, *pro hac vice pending*

11 **AMERICAN CENTER FOR LAW & JUSTICE**

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Attorneys for James E. Enstrom

17 **UNITED STATES DISTRICT COURT**

18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

19 **JAMES E. ENSTROM,**

Case No. _____

20 **Plaintiff,**

VERIFIED COMPLAINT FOR:

21 vs.

(1) DAMAGES; AND

(2) CIVIL PENALTY

22 **THE REGENTS OF THE**

23 **UNIVERSITY OF CALIFORNIA,**

24 **in their official capacity; GENE**

25 **BLOCK, individually and in his**

26 **official capacity as Chancellor of**

27 **the University of California, Los**

28 **Angeles; THOMAS RICE,**

individually and in his official

capacity as former Vice

Chancellor for Academic

Personnel of the University of

California, Los Angeles; CAROLE

GOLDBERG, individually and in

[DEMAND FOR JURY TRIAL]

1 her official capacity as Vice
2 Chancellor for Academic
3 Personnel of the University of
4 California, Los Angeles; LINDA
5 ROSENSTOCK, individually and
6 in her official capacity as Dean of
7 the School of Public Health at the
8 University of California, Los
9 Angeles; HILARY GODWIN,
10 individually and in her official
11 capacity as former Associate Dean
12 for Academic Programs for the
13 School of Public Health at the
14 University of California, Los
15 Angeles; RICHARD JACKSON,
16 individually and in his official
17 capacity as the Chair of the
18 Department of Environmental
19 Health Sciences at the University
20 of California, Los Angeles;
21 BARBARA HOUSEL, individually
22 and in her official capacity as
23 Administrator and Management
24 Services Officer for the
25 Department of Environmental
26 Health Sciences at the University
27 of California, Los Angeles,
28

Defendants.

1 speech and actions. Additionally, Defendants discriminated against Dr. Enstrom
2 based on his ideological and political affiliations and sought to purge an
3 academic dissenter from their ranks.

4 3. Specifically, following his extensive peer-reviewed research efforts
5 assessing the effects, if any, of fine particulate matter (PM2.5) on the human
6 health of Californians, Dr. Enstrom became an aggressive and lone critic at
7 UCLA of air pollution research. Dr. Enstrom was also highly critical of
8 draconian regulations that had been approved and implemented by the California
9 Air Resources Board (“CARB”) and the Scientific Review Panel on Toxic Air
10 Contaminants (“SRP”) and were endorsed by senior members of UCLA’s EHS.
11 Dr. Enstrom’s research, combined with his whistleblowing efforts that exposed
12 not only the false academic credentials of a leading CARB “scientist”, but also
13 the illegal and unethical tenure of several members of the SRP in violation of
14 proper appointment procedures, has had profound real world consequences
15 resulting in: embarrassing publicity for UCLA, the removal of several SRP
16 members, including one fellow EHS faculty member, Professor John R. Froines,
17 and an – ultimately – retaliatory campaign against Dr. Enstrom that caused
18 permanent damage to Dr. Enstrom’s reputation and effectively ended his career.

19
20 **JURISDICTION AND VENUE**

21 4. This civil rights action raises federal questions under the First and
22 Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

23 5. This Court has original jurisdiction over these federal claims
24 pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has authority to award the
25 requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory
26 relief pursuant to 28 U.S.C. §§ 2201-02; and costs and attorneys’ fees under 42
27 U.S.C. § 1988.

1 10. Defendant Gene Block is the Chancellor of the University of
2 California, Los Angeles, a public university organized and existing under the
3 laws of the State of California, and is responsible for overseeing all aspects of
4 the University's three-part mission of education, research, and service.
5 According to Standing Order 100.6 of the Regents, the UCLA Chancellor is "the
6 chief campus officer thereof and shall be the executive head of all activities on
7 that campus The Chancellor shall be responsible for the organization and
8 operation of the campus, its internal administration, and its discipline; and
9 decisions made by the Chancellor in accordance with the provisions of the
10 budget and with policies established by the Board or the President of the
11 University shall be final."

12 11. Defendant Thomas Rice served as the Vice Chancellor of Academic
13 Personnel at the University of California, Los Angeles, from August 1, 2006, to
14 June 30, 2011. According to the UCLA Office of the Executive Vice Chancellor
15 and Provost, Vice Chancellor Rice was responsible for "academic appointments,
16 promotions and advancements; academic recruitment and retention; faculty
17 grievance proceedings; faculty disciplinary proceedings; faculty housing and
18 loan programs; the Academic Personnel Office; emeriti faculty relations and
19 relations with academic employee organizations and associations." Dr. Rice
20 currently serves as a professor in the Department of Health Services in the
21 UCLA School of Public Health.

22 12. Defendant Carole Goldberg is the current Vice Chancellor of
23 Academic Personnel at the University of California, Los Angeles, as of July 1,
24 2011, and is a Professor of Law and Director of the joint degree program in law
25 and American Indian studies at the UCLA School of Law.

26 13. Defendant Linda Rosenstock is the Dean of the School of Public
27 Health and Professor of Environmental Health Sciences at the University of
28 California, Los Angeles. She is responsible for overseeing SPH administration,

1 including appointment of SPH faculty members, and, pursuant to UCLA Policy
2 910, shares primary responsibility for the management of Contracts, Grants, and
3 Cooperative Agreements for Sponsored Projects in the SPH.

4 14. Defendant Hilary Godwin is the former Associate Dean for
5 Academic Programs in the School of Public Health and current Professor of
6 Environmental Health Sciences at the University of California, Los Angeles.
7 Dean Godwin was responsible for overseeing SPH academic programs from
8 September 2008 until June 30, 2011.

9 15. Defendant Richard Jackson is the Chair and Professor for the
10 Department of Environmental Health Sciences at the University of California,
11 Los Angeles, and is responsible for overseeing EHS administration and,
12 pursuant to UCLA Policy 910, shares primary responsibility for the management
13 of Contracts, Grants, and Cooperative Agreements for Sponsored Projects in the
14 respective units or departments of EHS.

15 16. Defendant Barbara Housel is the Administrator and Management
16 Services Officer ("MSO") for the Department of Environmental Health Sciences
17 at the University of California, Los Angeles, and is responsible for overseeing
18 EHS administration.

19
20 **FACTUAL BACKGROUND**

21 17. Dr. James E. Enstrom holds a Ph.D. in Physics from Stanford
22 University, and a Masters of Public Health and Postdoctoral Certification in
23 Epidemiology from the University of California, Los Angeles.

24 18. Since July 1, 1976, Dr. Enstrom held a research faculty position at
25 the UCLA School of Public Health and had been successfully reappointed by
26 four SPH Deans and three EHS Chairs. Dr. Enstrom's position was self-funded,
27 with his salary funded by grants obtained from numerous external sources.

1 19. During his 35.5 year tenure, Dr. Enstrom received two major
2 promotions: the first to Associate Researcher on July 1, 1981, and second to
3 Researcher on July 1, 2000. Dr. Enstrom's promotion to Researcher was
4 reviewed and approved by Dean Rosenstock on January 16, 2001.

5 20. On July 1, 2004, Dr. Enstrom was hired into EHS as a Researcher,
6 following 28 years in the Office of the Dean of the SPH.

7 21. At the time of his 2004 appointment as a Researcher in the EHS
8 Department, Dr. Enstrom was conducting a study that began in 2002 regarding
9 the relationship between PM2.5 and mortality in California.

10 22. On December 15, 2005, Dr. Enstrom published the findings of his
11 ongoing research and study in an *Inhalation Toxicology* paper entitled "Fine
12 Particulate Air Pollution and Total Mortality Among Elderly Californians,
13 1973-2002," which found no relationship between PM2.5 and total mortality in
14 California.

15 23. This paper, supplemented by Dr. Enstrom's additional unpublished
16 research since 2005, represents the largest and most detailed study of the
17 relationship between PM2.5 and total mortality in California that has been
18 published in a peer-reviewed journal.

19 24. Dr. Enstrom's research represents a minority viewpoint at UCLA
20 and contradicts the opinions held by several senior EHS faculty members. EHS
21 Chair Jackson, EHS Professors John Froines and Arthur Winer, Epidemiology
22 and EHS Professor Beate Ritz, and Dean Rosenstock have all publicly supported
23 the widely popular – though scientifically unfounded – argument that diesel
24 particulate matter and/or PM2.5 results in increased mortality risks for
25 California citizens.

26 25. On June 4, 2008, the California Senate Rules Committee held a
27 hearing resulting in the confirmation of UCLA Law Professor Mary D. Nichols
28 as Chair of the California Air Resources Board. In a June 4, 2008, letter to

1 California State Senator Don Perata, EHS Professor John Froines recommended
2 confirmation of Professor Nichols and publicly expressed his support of the
3 adoption of new regulations on diesel emissions, stating, "The ARB and
4 OEHHA [Office of Environmental Health Hazard Assessment] documents had
5 determined there was causal evidence that exposure to diesel particulate resulted
6 in lung cancer based on human occupational epidemiological studies and
7 therefore met the criteria for listing as a TAC [toxic air contaminant]."

8 26. Professor Froines also included in his letter an attachment which
9 further illustrated his beliefs regarding the risks associated with PM2.5, stating,
10 "The California Air Resources Board (CARB) reviewed an extensive amount of
11 peer reviewed literature in concluding that a strongly positive association exists
12 between long-term exposures to PM2.5 and the increased risk of premature
13 death. While there may be a few studies that suggest a lack of evidence for the
14 relationship, the overwhelming evidence suggests the relationship is positive."

15 27. Dr. Enstrom also testified at this Senate Rules Committee hearing,
16 publicly stating that there exist important PM2.5 mortality findings in California
17 that were directly contrary to those supported by Professor Froines. Dr. Enstrom
18 also expressed his concerns about the appointment process of the SRP,
19 specifying that the process had not been properly followed as various members,
20 including Professor Froines, had served on the SRP board for extended periods
21 beyond their initial appointments.

22 28. In December 2008, following public comments by Defendant
23 Jackson, Defendant Rosenstock, and EHS Professors Ritz and Winer,
24 Dr. Enstrom became increasingly vocal in his efforts to dispel the scientifically
25 unsound, though ideologically orthodox, view regarding the alleged dangers of
26 PM2.5 and diesel particulate matter. Dr. Enstrom directly challenged EHS
27 Professors Jackson, Rosenstock, Ritz, and Winer's December 4, 2008,
28 statements supporting CARB diesel science and regulations.

1 29. Specifically, on December 10, 2008, in direct conflict with the
2 public comments by the five EHS professors mentioned above, Dr. Enstrom
3 released his own public comments challenging CARB diesel science and CARB
4 regulations. Dr. Enstrom also drew public attention to the lengthy and unlawful
5 tenure of a number of SRP board members, including that of fellow UCLA
6 faculty member and EHS Professor Froines. These allegations, Dr. Enstrom
7 contended, raised questions about the integrity and credibility of the research on
8 which CARB's new regulations relied.

9 30. In his public comments of December 10, 2008, Dr. Enstrom
10 exposed the fraudulent credentials of Hien T. Tran, a key CARB scientist and
11 lead author of the October 24, 2008 CARB Report on PM2.5 and premature
12 death in California. Mr. Tran's research report served as the primary public
13 health justification for a new diesel vehicle regulatory scheme approved by
14 CARB on December 12, 2008. Dr. Enstrom's statements brought to light that
15 Mr. Tran's Ph.D. was not awarded by the University of California at Davis as
16 Tran claimed. Mr. Tran subsequently admitted that he purchased his Ph.D. at a
17 cost of \$1,000 from "Thornhill University," a fake institution and Internet
18 diploma mill based at a UPS store in New York City.

19 31. Dr. Enstrom was the first individual to bring these issues to the
20 public and, following Dr. Enstrom's December 10, 2008 public comments,
21 numerous media outlets published stories citing Dr. Enstrom's criticism of
22 CARB diesel science regulations and SRP's appointment process, as well as the
23 alleged unethical conduct of two UCLA faculty members: Law Professor and
24 CARB Chair Nichols and EHS Professor and SRP Chair Froines.

25 32. As a direct result of Dr. Enstrom's actions highlighting the
26 unethical practices within SRP and contradicting much of CARB's research
27 regarding the dangers posed by PM2.5 and diesel particulate matter, UCLA
28 Chancellor Gene Block received a series of letters from Norman R. Brown,

1 President of Delta Construction Company (Delta), in 2009, alleging serious
2 unethical conduct of two UCLA faculty members, namely Professors Nichols
3 and Froines.

4 33. Dr. Enstrom's actions, which cast a light on the unethical practices
5 within SRP, such as his June 4, 2008 testimony before the Senate Rules
6 Committee and his April 22, 2008 and December 10, 2008 public comments
7 regarding CARB, also led to the filing of a lawsuit by the Pacific Legal
8 Foundation in June 2009. This lawsuit was aimed at SRP's failure to follow the
9 proper legally specified appointment process, particularly with regard to EHS
10 Professor Froines's uninterrupted and unlawful 26-year-long tenure on the SRP.

11 34. For the remainder of 2009, Delta continued to engage UCLA
12 officials, including Defendants Rosenstock and Jackson, regarding the alleged
13 unethical conduct of faculty members Professors Nichols and Froines in
14 connection with their positions on CARB and SRP.

15 35. Dr. Enstrom's advocacy, together with the Pacific Law
16 Foundation's lawsuit regarding the illegal terms served by many SPH board
17 members, eventually resulted in a 60-day suspension and demotion for Mr. Tran
18 in 2009, and the replacement of five members from the SRP in 2010. This
19 included Professor Froines who was replaced on or about July 22, 2010.

20 36. In the midst of this turmoil, on August 1, 2009, in Ontario,
21 California, Dr. Enstrom presented the results of his studies and his assessment of
22 CARB diesel science to a trucking and construction industry audience attending
23 the California Dump Truck Owners Association (CDTOA) – Southern
24 California Contractors Association (SCCA) Diesel Science Forum. In a
25 presentation entitled “None of This is Real’: Misuse of Diesel Science by the
26 CARB”, Dr. Enstrom criticized CARB diesel science, PM2.5 epidemiology, and
27 SRP's failure to comply with appointment regulations.

28

1 37. On November 3, 2009, following months of embarrassing publicity
2 for UCLA as a result of Dr. Enstrom's research and public comments,
3 Dr. Enstrom received written notice from EHS Administrator Barbara Housel
4 that his Professional Research series appointment would be reviewed by the
5 EHS faculty. This notice also stated that "under University policy it is required
6 that all Professional Research series appointments be renewed yearly."
7 Defendant Housel requested a complete dossier from Dr. Enstrom for the EHS
8 Department's next faculty meeting on November 9, 2009. Aside from a single
9 instance in 2004, Dr. Enstrom had not been previously required to furnish such a
10 dossier during his tenure at EHS. A true and correct copy of Ms. Housel's e-mail
11 is attached as **Exhibit 1**.

12 38. The notice given by Ms. Housel was unusual in that it ultimately
13 led to a confidential April 2010 vote on Dr. Enstrom's appointment by the entire
14 faculty of the EHS Department. The entire departmental faculty had never voted
15 on Dr. Enstrom's employment during his entire tenure at UCLA.

16 39. Dr. Enstrom had never previously been evaluated by this type of
17 Departmental faculty review process. During his entire tenure at UCLA
18 beginning on July 1, 1976, aside from the reviews that were required for
19 Dr. Enstrom's promotions in 1981 and 2000, Dr. Enstrom had only been
20 reviewed on an informal basis. These informal reviews had been conducted
21 before his annual reappointments through undocumented assessments given by
22 four consecutive SPH Deans and the two EHS Chairs who preceded EHS Chair
23 Jackson.

24 40. EHS Chair Jackson has admitted that a full departmental faculty
25 review of a Researcher like Dr. Enstrom was "unusual" and that the EHS faculty
26 "hadn't [conducted a similar review] for another researcher."

27 41. In the meantime, Dr. Enstrom continued his efforts to ensure that
28 the integrity of the SRP, including its appointment process, was restored. On

1 November 12, 2009, he met with University of California ("UC") President
2 Mark G. Yudof, UC Regents Chair Russell Gould, UC Provost Lawrence Pitts,
3 and two other officials from the UC Office of the President to discuss matters of
4 public concern such as Enstrom's questions and concerns regarding the CARB
5 regulations, the need to suspend and reassess CARB diesel and formaldehyde
6 regulations, violations of UC Standards of Ethical Conduct, and the UC
7 Presidents' failure to make regular (annual) SRP nominations in accordance
8 with California Health and Safety Code Section 39670-39671.

9 42. On December 14, 2009, upon receipt of his October 2009 Summary
10 of Funds from EHS staff Joan Klemstine, Dr. Enstrom learned that during part
11 of 2008 and through 2009, and without his knowledge or permission, his salary
12 had been charged to three of his unrestricted funds (funds 45634, 59039, and
13 69970) instead of Fund 59605 which had been the only source designated by
14 Dr. Enstrom for use in payment of his salary during his entire tenure in EHS,
15 which began on July 1, 2004.

16 43. As noted above, as a Researcher at UCLA, Dr. Enstrom's salary
17 was supported entirely by the awards, grants, and private funding that he
18 brought to UCLA. This funding is managed by UCLA pursuant to Policy 910,
19 governing the management of sponsored projects. Dr. Enstrom serves as the
20 Principal Investigator for the funding.

21 44. Specifically, according to UCLA Policy 910:

22 UCLA solicits and accepts Awards on behalf of The Regents of the
23 University of California from a variety of organizations for organized
24 research, instruction and training, and other sponsored activities

25 Awards take on the appearance of Contract, Grants or Cooperative
26 Agreements when they include requirements such as a specified
27 period of performance or a specific scope of work to be followed or
28 other conditions or obligations required of the University to fulfill the

1 terms of the Award. Awards without restrictions generally constitute
2 gifts.

3 45. Policy 910 also provides:

4 With the submission of proposals and the acceptance of Awards,
5 UCLA agrees to provide technical or scientific expertise, and to
6 manage each Sponsored Project in compliance with various fiscal and
7 administrative regulations. Specific individuals and select
8 administrative support units share responsibility for managing
9 Sponsored Projects.

10 46. This diversion of funds, or payment of Dr. Enstrom's salary from
11 his unrestricted funds, was done without Dr. Enstrom's knowledge or approval
12 as the Principal Investigator of the funds. This was also in direct contravention
13 of Dr. Enstrom's agreement and understanding with UCLA, as was expressly
14 memorialized on each monthly time sheet signed by Dr. Enstrom since July 1,
15 2004, specifically indicating that Fund 59605 was to be used to pay his salary.
16 True and correct copies of the July 2004 memo specifying Fund 59605 and
17 Dr. Enstrom's July 2009 monthly time sheet are attached as **Exhibits 2 and 3**.

18 47. Shortly thereafter, in January 2010, EHS personnel notified
19 Dr. Enstrom for the first time that Fund 59605 had actually been overdrawn in
20 April 2008 and closed in May 2009. EHS provided Dr. Enstrom with relevant
21 UCLA ledger sheets which showed that Dr. Enstrom's salary had been charged
22 to his unrestricted funds without his knowledge or permission, thereby causing
23 his unrestricted funds to be depleted. As a direct consequence of this
24 mismanagement of funds, Dr. Enstrom was forced to reexamine the EHS
25 accounting of all his Funds since 2007. This mismanagement of funds also
26 forced Dr. Enstrom to work without compensation for a significant period of
27 time. True and correct copies of the UCLA Official Financial Reports for Fund
28 59605 dated May 2008 and May 2009 are attached as **Exhibit 4**.

1 48. This untimely notice violated Policy 910, which requires that:
2 Once an award has been made, the department chair or ORU
3 [Organized Research Unit] director has continuing responsibility to
4 ensure that administrative staff . . . 3. Maintain budgetary control
5 through the use of departmental bookkeeping and cost control systems
6 and monthly reconciliation with the general ledger; [and] 4. Provide
7 the PI [Principal Investigator, Dr. Enstrom] with accurate and timely
8 information about expenditures; confer with the PI in order to make
9 adjustments as may be necessary to ensure that the general ledger is
10 cleared of any expenses not applicable to the Sponsored Project.

11 49. In response to the untimely notices regarding Dr. Enstrom's EHS
12 reappointment and the depletion of his funds, Dr. Enstrom made several attempts
13 in late 2009 and early 2010 to schedule an appointment to meet with EHS Chair
14 Jackson. Dr. Enstrom wanted to discuss his funding issues and the renewal
15 process for Dr. Enstrom's research appointment as mentioned by EHS
16 Administrator Housel. Dr. Jackson, however, continued to delay such a meeting
17 with Dr. Enstrom, rescheduling numerous times. A true and correct copy of the
18 pertinent e-mail correspondence between Enstrom and Jackson is attached as
19 **Exhibit 5.**

20 50. Finally, on February 5, 2010, Dr. Enstrom met with EHS Chair
21 Jackson to discuss several important issues, including Dr. Enstrom's long history
22 in the SPH, the ongoing EHS faculty review of his appointment, the accounting
23 irregularities Dr. Enstrom had encountered regarding his funds, his research on
24 PM2.5 and mortality in California, his concerns about the 26-year-long service
25 of Professor Froines on the SRP, and Enstrom's meeting on November 12, 2009,
26 with UC President Yudof and other top UC officials. Dr. Jackson became visibly
27 upset when Dr. Enstrom discussed his meeting with President Yudof and his
28 concerns about Professor Froines.

1 51. Following his meeting with Chair Jackson, Dr. Enstrom conducted
2 his own investigation of the management of his funds from 2007 forward, and
3 found serious accounting irregularities for the years 2008 and 2009. Enstrom
4 informed Dr. Jackson of these irregularities on February 9, 2010, and requested
5 additional information, including the identity of the individual who authorized
6 the charging of his salary to his unrestricted funds in violation of Policy 910. In
7 addition, Dr. Enstrom also requested a full accounting of all of his funds since
8 the year 2007. A true and correct copy of this e-mail exchange is attached as
9 **Exhibit 6.**

10 52. Dr. Enstrom also learned that, despite his having never maintained
11 an office on campus, his primary salary fund (Fund 59605) was nevertheless
12 charged the higher On-Campus Indirect Cost Rate (54% at present), instead of
13 the lower Off-Campus Rate (26% at present).

14 53. According to the website of the UCLA Office of Contract and
15 Grants Administration as of April 27, 2011, the Facilities and Administrative
16 (F&A) Cost Rate Agreement sets forth the guidelines for determining whether
17 an On-Campus Research Rate (54%) or Off-Campus Rate (26%) should be
18 charged. As provided by this policy, from July 1, 2010, to June 30, 2016, an
19 Off-Campus Rate of 26% should be applied to “projects conducted at facilities
20 not owned or leased by the University.” A true and correct copy of this policy is
21 attached to this Complaint as **Exhibit 7.**

22 54. Prior to the implementation of the aforementioned April 2011
23 policy, the applicable rate policy, entitled “Colleges and Universities Rate
24 Agreement”, was enacted February 28, 2007, and was applicable from July 1,
25 2007, to June 30, 2010. Under this 2007 Rate Policy, the On-Campus Organized
26 Research Rate was 54%, and the Off-Campus Rate was 26%. The Off-Campus
27 Rate was to be applied “to those projects conducted at facilities not owned or
28

1 leased by the University.” A true and correct copy of this policy is attached as
2 **Exhibit 8.**

3 55. Prior to the implementation of the February 2007 policy, the
4 applicable rate policy, entitled “Colleges and University Rate Agreement”, was
5 enacted on May 14, 2003, and was applicable from July 1, 2003, to
6 June 30, 2007. Under this 2003 Rate Policy, the On-Campus Organized
7 Research Rate was between 52.5%-54.5%, as it fluctuated depending on the
8 year. The Off-Campus Organized Research Rate was 26%. The Off-Campus
9 Rate was to be applied “to those projects conducted at facilities not owned or
10 leased by the University.” A true and correct copy of this policy is attached as
11 **Exhibit 9.**

12 56. Since joining EHS in 2004, Dr. Enstrom has not been assigned any
13 UCLA on-campus space other than a 0.4 cubic-foot mail slot in the School of
14 Public Health mail room. He has conducted all of his EHS and SPH research at
15 an off-campus office. No rent has been charged for this office.

16 57. While Dr. Enstrom had requested an on-campus office on various
17 occasions throughout his tenure as a Researcher in the EHS department, he had
18 never received such space – a fact Chair Jackson was well aware of.

19 58. Because he had expected to be given office space in EHS, however,
20 Dr. Enstrom initially requested in 2004 that Fund 59605 be assessed the On-
21 Campus Indirect Cost Rate (52-55%). However, although he was never given
22 any such office space, Fund 59605 continued to be charged the On-Campus
23 Rate, not the appropriate Off-Campus Indirect Cost Rate.

24 59. As a result of improperly charging the increased On-Campus rate of
25 roughly 54%, UCLA overcharged Fund 59605 approximately \$100,000 in
26 indirect costs.

27 60. On February 8, 2010, following Dr. Enstrom’s meeting with
28 Department Chair Jackson on February 5, 2010, instead of addressing the

1 serious financial and academic concerns that Dr. Enstrom had raised in their
2 previous meeting, Jackson produced for Dr. Enstrom UCLA Call Appendix 33,
3 entitled "Policy Governing Layoff of Non-Senate Academic Appointees", and
4 began preparing a layoff notice for Enstrom that, due to a depletion of his grant
5 funding, support for his position would be coming to an end – essentially giving
6 Dr. Enstrom an informal notice of termination.

7 61. On February 10, 2010, five days after his meeting with EHS Chair
8 Jackson, Dr. Enstrom received the first of several inconsistent notices that he
9 was being terminated. In a memorandum to Dr. Enstrom dated February 10,
10 2010, EHS Chair Jackson notified Dr. Enstrom that, as a result of the depletion
11 of his funds, he would be laid off indefinitely, effective April 21, 2010, as a
12 Researcher in the EHS department. A true and correct copy of this letter is
13 attached as **Exhibit 10**.

14 62. Based on the information already gathered by Dr. Enstrom
15 regarding the irregularities in the accounting of his funding, he immediately
16 challenged the reasoning cited in support of the decision that he be laid off. Dr.
17 Enstrom notified EHS Chair Jackson that, according to his own records and
18 calculations, he had enough funding to support his position through 2011 based
19 on a combination of salary funds, vacation, and sick leave.

20 63. According to UCLA Policy 910, "the department chair or the ORU
21 director is responsible for ensuring that all financial transactions are properly
22 recorded in a timely manner."

23 64. Policy 910 also provides:

24 [The] department chair or ORU director has continuing responsibility
25 to ensure that administrative staff: 1. Reallocate appropriated funds
26 into the appropriate budget categories; 2. Review and approve
27 financial transactions related to personnel . . . rebudgeting of funds . . .

28 3. Maintain budgetary control through the use of departmental

1 bookkeeping and cost control systems and monthly reconciliation with
2 the general ledger; 4. Provide the PI with accurate and timely
3 information about expenditures . . . 5. Identify appropriate unrestricted
4 fund sources at the department level to cover cost-sharing
5 commitments

6 65. Dr. Enstrom has, on numerous occasions, requested an accounting
7 of his research funds from EHS Chair Jackson and several other SPH officials,
8 including by correspondence on February 9, 2010, April 1, 2010, June 15, 2010,
9 July 14, 2010, December 17, 2010, June 23, 2011, and September 29, 2011.

10 66. UCLA has never provided Dr. Enstrom an official accounting of his
11 2007-2009 funding records. In fact, UCLA's only formal response to Enstrom's
12 multiple requests came in the form of an e-mail on September 2, 2011, from
13 William H. Cormier, Director of the UCLA Office of Administrative Policies &
14 Compliance, followed by a letter from UCLA Campus Counsel, Amy Blum, on
15 December 15, 2011.

16 67. Cormier's response of September 2, 2011, merely addressed the
17 indirect cost issue in response to Dr. Enstrom's June 23, 2011 request sent to the
18 UCLA Audit Service. Mr. Cormier found that his own inquiry "disclosed facts
19 that arguably might support" Dr. Enstrom's view that he should have been
20 charged the applicable indirect cost rate (26%), rather than the on-campus rate
21 he was in fact charged (52-55%). Nevertheless, Mr. Cormier denied
22 Dr. Enstrom's request for reimbursement. A true and correct copy of this
23 document is attached as **Exhibit 11**.

24 68. Counsel Amy Blum's December 15, 2011, response admitted to
25 UCLA's charge to Dr. Enstrom's funds of the higher On-Campus overhead rate
26 of 54%. However, Blum attempted to justify this higher rate on the mere fact
27 that Dr. Enstrom created the "impression" that he maintained an on-campus
28

1 office “by providing the University and his Chair and Dean with an on-campus
2 address.” As stated above, this address was the SPH mail room.

3 69. Following Dr. Enstrom’s contradictions of EHS Chair Jackson’s
4 reasons for his termination due to a supposed lack of funding and his detailed
5 requests for an accounting of his research funds, UCLA abandoned its attempt to
6 terminate Enstrom based upon a lack of funding. In fact, UCLA has never again
7 asserted or cited this reason in support of EHS’s decision not to re-appoint
8 Dr. Enstrom in any of its subsequent proceedings on the matter. Nevertheless,
9 Defendants did not restore his funding and thereby forced Dr. Enstrom to
10 maintain his position without compensation. In fact, Dr. Enstrom has not
11 received any salary since June 2010 and has been denied access both to his
12 existing sick leave as well as new funding.

13 70. On May 5, 2010, the University renewed its efforts to terminate
14 Dr. Enstrom when EHS Chair Jackson notified Dr. Enstrom by e-mail that his
15 continued affiliation with the EHS Department was being confidentially voted
16 upon by EHS faculty, including Professor John Froines – one of the very
17 individuals implicated in Dr. Enstrom’s whistleblowing efforts. A true and
18 correct copy of this e-mail is attached as **Exhibit 12**.

19 71. The vote and decision by EHS faculty was made without the benefit
20 of any thorough review of Dr. Enstrom’s research and full dossier by EHS
21 faculty. In fact, in the months of February through May 2010, EHS Chair
22 Jackson repeatedly refused to allow Dr. Enstrom to present his research and his
23 full dossier to the EHS faculty for review. True and correct copies of
24 Dr. Enstrom’s requests to EHS faculty for an opportunity to present his research
25 are attached as **Exhibit 13**.

26 72. Furthermore, while denying Dr. Enstrom an opportunity to present
27 his research, Department Chair Jackson openly criticized Dr. Enstrom’s research
28 to other EHS faculty, circulating an e-mail on March 8, 2010, and commenting

1 on a February 26, 2010 CARB presentation made by Dr. Enstrom regarding
2 PM2.5 and mortality rates. Dr. Jackson highlighted for EHS faculty a single,
3 controversial slide in Enstrom's presentation that expressed Enstrom's
4 viewpoints with Jackson's own comment: "remarkable." A true and correct copy
5 of this e-mail is attached as **Exhibit 14**.

6 73. Additionally, EHS faculty wholly and selectively omitted
7 Dr. Enstrom from its 2009-2010 "UCLA Department of Environmental Health
8 Sciences Self-Review Report", dated January 29, 2010, which contained an
9 extensive 650-page discussion and summary of the Department's research and
10 activities. This omission occurred in spite of the fact that EHS Chair Jackson
11 clearly had been aware of Dr. Enstrom's research faculty position in EHS since
12 late 2008 when Jackson offered Enstrom an opportunity for a promotion within
13 EHS.

14 74. On June 9, 2010, following this vote by the EHS faculty,
15 Dr. Enstrom received the second notice that his position as Researcher would be
16 terminated. This time, UCLA reasoned that, effective June 30, 2010,
17 Dr. Enstrom would be indefinitely laid off due to programmatic and financial
18 reasons. EHS Chair Jackson stated that "programmatically, your research is not
19 aligned with the academic mission of the Department and your research output
20 and ability to secure continued funding does not meet the minimum
21 requirements of the Department." A true and correct copy of this notice is
22 attached as **Exhibit 15**.

23 75. Chair Jackson's notice also failed to provide Dr. Enstrom at least
24 sixty (60) days notice of UCLA's intent not to reappoint him, in violation of its
25 "Procedures for Non-Reappointment of an Appointee Who Has Served Eight or
26 More Consecutive Years," provided in APM 137-32. Thus, on June 30, 2010,
27 SPH Associate Dean for Academic Programs Hilary Godwin wrote Dr. Enstrom
28 to inform him of an extension of his appointment for an additional sixty (60)

1 days, or until August 30, 2010. This letter, however, failed to inform Dr.
2 Enstrom that although his appointment was being extended, its status was also
3 being changed from the "100 Percent Time" position that it had been for 34
4 years to a "0 Percent Time" position, effective July 1, 2010. This change in
5 status prevented Dr. Enstrom from receiving a salary after June 30, 2010. A true
6 and correct copy of this letter is attached as **Exhibit 16**.

7 76. Defendant Godwin's letter reiterated the contention that "the basis
8 for non-reappointment is that the faculty of Environmental Health Sciences have
9 determined that your research is not aligned with the academic mission of the
10 Department, and that your research output and other contributions do not meet
11 the department minimums."

12 77. On July 14, 2010, Dr. Enstrom appealed UCLA's decision not to
13 reappoint him according to the university's "Procedures for Non-Reappointment
14 of an Appointee Who Has Served Eight or More Consecutive Years" by letter to
15 then-Vice Chancellor Thomas Rice. A true and correct copy of this letter is
16 attached as **Exhibit 17**.

17 78. In response to Dr. Enstrom's letters dated June 15 and
18 July 14, 2010, Defendant Godwin affirmed the decision not to reappoint
19 Dr. Enstrom by letter dated July 29, 2010, with the conclusory statement that
20 "the reason for non-reappointment is [that] the faculty of the Department of
21 Environmental Health Sciences has determined [that] your research is not
22 aligned with the academic mission of the Department, and your research output
23 and other contributions do not meet the department requirements." A true and
24 correct copy of this letter is attached as **Exhibit 18**.

25 79. On August 12, 2010, Dr. Enstrom timely filed a formal grievance
26 challenging his non-reappointment under the appropriate provisions of the
27 UCLA Academic Personnel Manual, APM 140, and timely filed a whistleblower
28 retaliation complaint on August 27, 2010, as provided by the University of

1 California Whistleblower Protection Policy. Because of the time needed to
2 review the whistleblower retaliation complaint, Dr. Enstrom's appointment at a
3 "0 Percent Time" position was extended until March 31, 2011. Dr. Enstrom was
4 thereby prohibited from receiving any salary during the appeal process.

5 80. On October 20, 2010, an APM 140 Step II-A Review was
6 conducted by UCLA School of Medicine Assistant Dean for Academic Affairs
7 Dr. Richard H. Gold as the second stage in the grievance process. Here, EHS's
8 reasons for Dr. Enstrom's dismissal were further evaluated and additional
9 shifting justifications were presented in defense of the EHS's decision not to
10 reappoint Enstrom. Dr. Gold, however, failed to conduct a full review of the
11 evidence and information Dr. Enstrom asserted, specifically regarding his
12 concerns that his rights under the First Amendment had been violated.

13 81. Despite the Department's assertion that "Dr. Enstrom's research did
14 not align with the department's mission," much of Dr. Enstrom's research for
15 the previous six years as a Researcher in the EHS Department focused on the
16 threat certain air pollutants posed to public health – a topic of intense debate in
17 California and the subject of extensive ongoing environmental health research
18 conducted in EHS.

19 82. Coincidentally, the stated mission of UCLA's Department of EHS
20 in 2008, according to the Department website is as follows:

21 In the Department of Environmental Health Sciences, we are
22 committed to furthering research and education at the interface
23 between human health and the environment. The research in our
24 department is extremely interdisciplinary and ranges from studies on
25 children's exposure to particulates from diesel buses, to studies on
26 anthropogenic impacts on intertidal habitats, to studies on the
27 mechanism of toxicity of metals and nanoparticles.

28

1 83. In addition, in the EHS Self-Review dated January 29, 2010, the
2 Department touts that in research, it has been “a leader in the health effects of air
3 pollution and vehicular emissions, industrial hygiene, toxicology (including
4 ecotoxicology and risk assessment), children’s health and the environment,
5 environmental biology and chemistry including water quality, built environment
6 and health, agriculture and pesticide issues, teratology and carcinogenesis,
7 environmental health policy, globalization, as well as other areas.”

8 84. Therefore, contrary to the department’s assertion that Dr. Enstrom’s
9 research did not “align with the department’s mission,” it came as no surprise
10 that Dr. Gold found, on this particular justification, that “Dr. Enstrom’s research
11 is fully aligned with the department’s mission. By its very name, the Department
12 of Environmental Health Sciences [EHS] embraces the research foci of
13 Dr. Enstrom, i.e., determining the effect of diesel exhaust fine particulate matter
14 on overall mortality in California”

15 85. Additionally, during Dr. Gold’s review, Chair Jackson defended his
16 decision that Enstrom had not met department “minimum requirements” by
17 presenting a document to Dr. Gold that was dated February 8, 1995. This
18 document allegedly set forth publication rates expected of faculty at the rank of
19 assistant professor, associate professor, and full professor, requiring an average
20 of two peer-reviewed papers per year.

21 86. At no time prior to Dr. Gold’s review had Jackson presented this
22 document. Furthermore, Dr. Enstrom had never seen nor been presented with a
23 copy of this document. Moreover, the document did not address the publishing
24 requirements for faculty at Enstrom’s rank as a Researcher.

25 87. In addition, Dr. Enstrom was never otherwise given notice of
26 expected “department minimums” in research and productivity; nor did he ever
27 receive a warning that his pace of research was allegedly falling behind until he
28 received the termination notice.

1 88. Notably, Dr. Enstrom's productivity and research had actually
2 increased in the last five years of his employment from 2004 to 2009 compared
3 to his average five-year research production in the twenty-nine (29) years prior.

4 89. Moreover, according to an assessment of the peer-reviewed
5 publications listed on PubMed.gov, Dr. Enstrom's productivity during this time
6 was similar to that of full EHS Professors Jackson, Godwin, and Rosenstock. In
7 the five years of Enstrom's tenure in the EHS Department from October 2005 to
8 September 30, 2010, Dr. Enstrom authored four papers; Chair Jackson authored
9 two papers – neither of which was based on research conducted at UCLA;
10 Professor Godwin authored four papers, only one of which was based on
11 research conducted at UCLA; and Professor Rosenstock authored five papers.

12 90. Dr. Gold's investigation also revealed another shifting justification
13 raised by EHS Chair Jackson for the first time in support of his decision:
14 Jackson believed that Dr. Enstrom's research did not align with EHS academic
15 standards because "Dr. Enstrom, an epidemiologist, belonged not in EHS but in
16 the Department of Epidemiology."

17 91. This final justification lacks any credible support given the
18 department's offer of the EHS Chair position in 2006 to epidemiologist Michael
19 Jerrett (now in the EHS Department at UC Berkeley conducting air pollution
20 epidemiology and other related research), and appointment of a full
21 professorship in 2010 to epidemiologist Niklas Krause. It is also of note that
22 EHS Chair Jackson has a M.P.H. in Epidemiology and EHS Professors Niklas
23 Krause, Wendie Robbins, Beate Ritz, and Zuo-Feng Zhang each have a Ph.D. in
24 Epidemiology.

25 92. On January 28, 2011, when it became clear that the appeals process
26 would not be resolved by March 31, 2011, Dr. Enstrom received notice from
27 Associate Dean for SPH, Hilary Godwin, that that his appointment would again
28 be extended through June 30, 2011, pending the resolution of the campus

1 appeals proceedings regarding his appointment. Due to additional delays,
2 Dr. Enstrom received several additional extensions of his appointment which
3 delayed his termination date until August 31, 2011. Once more, these extensions
4 were without pay.

5 93. On April 4, 2011, the third and final step in Dr. Enstrom's appeals
6 proceedings began with an APM 140 Step III-B Hearing regarding his APM 140
7 Grievance and Whistleblower Complaint. Despite Dr. Enstrom raising concerns
8 based on Academic Freedom and his constitutional and free speech rights,
9 Hearing Officer Sara Adler explicitly refused to address these claims. Hearing
10 Officer Adler also explicitly refused to address Dr. Enstrom's concerns
11 regarding his being forced to continue to work without pay and the wrongful
12 depletion of his research funds.

13 94. During this third and final step in Dr. Enstrom's appeal process, it
14 was also revealed by way of evidence presented that despite the Department's
15 contention that Dr. Enstrom's research output did not satisfy the Department's
16 minimum standards, Department Chair Jackson and other key professors who
17 participated in the decision not to reappoint Dr. Enstrom admitted they did not
18 even bother to review his publications during their evaluation of Dr. Enstrom's
19 scholarship.

20 95. In her decision dated June 15, 2011, Hearing Officer Adler upheld
21 EHS's termination of Dr. Enstrom. By way of a letter dated July 5, 2011,
22 Dr. Enstrom appealed this non-binding decision to Defendants Block and
23 Goldberg.

24 96. On August 30, 2011, Defendant Goldberg issued a decision on
25 behalf of Defendant Block upholding Dr. Enstrom's termination. This decision –
26 like all the ones before – failed to address Dr. Enstrom's First Amendment
27 claims and failed to address any claims regarding the wrongful depletion of his
28 research accounts and his continued work without pay since June 2010.

1 Goldberg, however, extended Dr. Enstrom's appointment again, moving the
2 termination date of his appointment from August 31, 2011, to June 30, 2012.
3 Once more, this extension was without pay.

4 97. UCLA APM Policy 137-30(c) and 137-32(a), governing notices of
5 non-reappointment for an appointee serving eight or more consecutive years in
6 the same academic title or title series, states that notice of non-reappointment
7 requires notification of ". . . the basis for non-reappointment, including a copy of
8 any materials supporting the decision not to reappoint."

9 98. UCLA's reasoning for Enstrom's non-reappointment or termination
10 was variously supported by numerous shifting justifications. Many of these
11 relied on materials that were never documented or mentioned in UCLA's notices
12 of non-reappointment, nor was Dr. Enstrom ever furnished copies of these
13 alleged documents or other materials.

14 99. Numerous peers and colleagues have expressed both public and
15 private concerns about the integrity of UCLA's decision not to reappoint
16 Dr. Enstrom. On April 15, 2011, UCLA's own Academic Senate's Academic
17 Freedom Committee, comprised of professors from various disciplines within
18 UCLA, expressed "unanimous concern" that SPH's actions towards Dr. Enstrom
19 "may represent a violation of academic freedom." A true and correct copy of this
20 letter is attached as **Exhibit 19**.

21 100. As a result of UCLA's retaliation against Dr. Enstrom and
22 numerous attempts to terminate him, Dr. Enstrom has not been able to submit
23 applications for new funding through the University since early 2010, as
24 approval of these applications would be required from both EHS Chair Jackson
25 and SPH Dean Rosenstock.

26 101. As noted above, since June 2010, the University has also failed to
27 pay Dr. Enstrom any salary despite the multiple extensions of his appointment
28 through June 30, 2012. This is in spite of the fact that Dr. Enstrom's records

1 show he has substantial accrued sick leave as well as the fact that he would have
2 had substantial remaining funds but for UCLA's unauthorized use of his
3 unrestricted funds for payment of his salary and overcharging of indirect costs.

4 102. His appeals exhausted, his rights violated, and under extreme
5 financial distress from almost 18 full months of work without pay, in
6 November 2011, Dr. Enstrom had no choice but to retire from UCLA.

7
8 **FIRST CAUSE OF ACTION**

9 **First Amendment Retaliation**

10 **(42 U.S.C. § 1983)**

11 103. Plaintiff repeats and realleges each of the foregoing allegations in
12 this Complaint.

13 104. In retaliation to Dr. Enstrom's numerous efforts to appropriately
14 influence public policy and his persistent and effective critiques not only of junk
15 environmental science but also of unlawful and unethical practices by state
16 officials, Defendants began termination proceedings against Dr. Enstrom and
17 unlawfully depleted his research funds, depriving him of any further
18 compensation for his work.

19 105. Dr. Enstrom's speech and expression regarding alleged public
20 mortality due to PM2.5 and his speech and expression regarding unlawful and
21 unethical practices at CARB and SRP constituted speech on a matter of public
22 concern.

23 106. Defendants, acting under color of state law, and by policy and
24 practice, have explicitly and implicitly retaliated against Plaintiff for exercising
25 his clearly established right to free speech on issues of public concern as secured
26 by the First Amendment to the United States Constitution.

27 107. Defendants, individually and acting on behalf of their governmental
28 employer, UCLA, have violated Plaintiff's First Amendment rights by refusing

1 to renew his appointment because of his conservative scientific and political
2 views, associations, and expressions, and have used shifting justifications as a
3 pretext to conceal improper and unlawful motives. Defendants' actions were
4 prompted by their own personal agendas rather than the University's
5 programmatic and/or financial concerns.

6 108. Because of Defendants' actions, Plaintiff has suffered, and
7 continues to suffer, economic injury and irreparable harm. He, therefore, is
8 entitled to an award of monetary damages, including punitive damages, and
9 equitable relief.

10 109. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to an
11 award of monetary damages in an amount to be determined by the evidence and
12 this Court and the reasonable costs of this lawsuit, including his reasonable
13 attorneys' fees.

14
15 **SECOND CAUSE OF ACTION**

16 **Violation of Dr. Enstrom's Fourteenth Amendment Right to Due Process**

17 **(42 U.S.C. § 1983)**

18 110. Plaintiff repeats and realleges each of the foregoing allegations in
19 this Complaint.

20 111. By failing to provide Plaintiff notice of the alleged depletion of his
21 funds and denying him an accounting of the funds held in trust for Dr. Enstrom
22 and managed by UCLA, Defendants punished Dr. Enstrom for his
23 constitutionally protected speech activities without due process and continue to
24 deny due process despite repeated requests for an accounting of lost funds and
25 repeated requests that fund depletion be considered as an element of his
26 grievance proceeding.

27 112. Defendants, acting under color of state law, and by policy and
28 practice, have deprived Plaintiff of his clearly established right to due process of

1 law secured by the Fourteenth Amendment to the United States Constitution.
2 Defendants' actions were prompted by their own personal agendas rather than
3 the University's programmatic and/or financial concerns.

4 113. Because of Defendants' actions, Plaintiff has suffered, and
5 continues to suffer, economic injury and irreparable harm. He, therefore, is
6 entitled to an award of monetary damages, including punitive damages, and
7 equitable relief.

8 114. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to an
9 award of monetary damages in an amount to be determined by the evidence and
10 this Court and the reasonable costs of this lawsuit, including his reasonable
11 attorneys' fees.

12
13 **THIRD CAUSE OF ACTION**

14 **Breach of Fiduciary Duty**

15 115. Plaintiff repeats and realleges each of the foregoing allegations in
16 this Complaint.

17 116. Defendants, as faculty, officers and/or directors of UCLA,
18 maintained a responsibility and duty of care to Plaintiff in the proper
19 management of the grant projects and funding held in trust by Defendant for
20 Plaintiff.

21 117. Each of the Defendants has breached their duty of care to Plaintiff
22 by engaging in, participating in, and facilitating the following actions or
23 omissions including:

- 24 a. the mishandling of grants and funds for Plaintiff which resulted in
25 an improper depletion of his research funds;
26 b. the wrongful charging of an increased On-Campus rate of 54% to
27 Plaintiff's funds;

1 c. failure to provide proper and timely notice to Plaintiff of the alleged
2 depletion of his funds; and

3 d. failure to provide Plaintiff a proper accounting of such funds.

4 118. Defendants have failed to act in good faith and with the care of an
5 ordinarily prudent person in a similar position and under similar circumstances.
6 Defendants' actions were prompted by their own personal agendas rather than
7 the University's programmatic and/or financial concerns.

8 119. As a result of Defendant's breach of care, Plaintiff has suffered, and
9 continues to suffer, economic injury. He, therefore, is entitled to an award of
10 monetary damages, including compensatory and punitive damages, and
11 equitable relief.

12

13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff James E. Enstrom respectfully requests a jury
15 trial and that the Court enter judgment against Defendants The Regents of the
16 University of California; Gene Block, Thomas Rice, Carol Goldberg, Linda
17 Rosenstock, Hilary Godwin, Richard Jackson, and Barbara Housel, and provide
18 Plaintiff with the following relief:

19 (A) A declaration stating that Defendants violated Dr. Enstrom's right
20 to free speech on matters of public concern;

21 (B) A declaration stating that Defendants violated Dr. Enstrom's due
22 process rights;

23 (C) A declaration stating that Defendants breached a fiduciary duty to
24 Dr. Enstrom;

25 (D) An injunction requiring Defendants to rehire Dr. Enstrom at a
26 compensation level commiserate with his experience and numerous years of
27 service at UCLA;

28

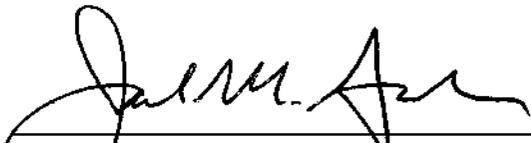
1 (E) Monetary damages (including punitive damages for Defendants'
2 actions in their individual capacities) in an amount to be determined by the jury;

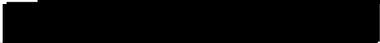
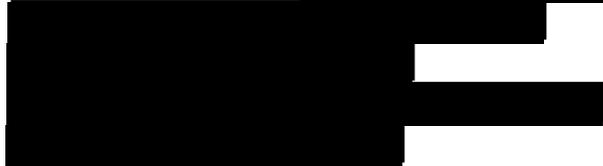
3 (F) Reasonable attorneys' fees, costs, and other costs and
4 disbursements in this action pursuant to 42 U.S.C. § 1988; and

5 (G) All other further relief to which Dr. Enstrom may be entitled.

6 Respectfully submitted this 17th day of JUNE 2012.

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SCHULER, BROWN & EKIZIAN
JACK M. SCHULER, 
SAM D. EKIZIAN, 


DAVID A. FRENCH, *pro hac vice pending*
ABIGAIL A. SOUTHERLAND, *pro hac vice pending*
MICHELLE K. TERRY, *pro hac vice pending*
AMERICAN CENTER FOR LAW & JUSTICE


Attorneys for James E. Enstrom

X-Sieve: CMU Sieve 2.2
Subject: Renewal of appointment
Date: Tue, 3 Nov 2009 12:16:10 -0800
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: Renewal of appointment
Thread-Index: AcpcwXh2QLeTl7wRR2+qLC4TasBhjA=
Priority: Urgent
From: "Housel, Barbara" <bhousel@ph.ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Cc: "Jackson, Richard J." <dickjackson@ucla.edu>
X-Probable-Spam: no
X-Spam-Hits: 0.001
X-Spam-Score:
X-Spam-Report: HTML_MESSAGE
X-Scanned-By: smtp.ucla.edu on 169.232.48.242

Dr. Enstrom,

It has come to my attention that under University policy it is required that all Professional Research series appointments be renewed yearly. As a Researcher you will need to provide me with a complete dossier which must be presented at the executive session of our faculty meeting. I apologize for the short notice, however the department will be holding its next faculty meeting on Monday, November 9, 2009 and will be having an executive session to review academic actions. Since your renewal is already late I need to request that you submit your file by Friday, November 6, 2009. If you have any questions please let me know. Thank you.

Barbara

July 9, 2004

To: Elaine Brooks
From: James E. Enstrom, Ph.D.
Re: Appointment and Salary Fund Changes

I am writing to update my July 25, 2003 memo to Velia Primo. Effective July 1, 2004 through June 30, 2005, my salary will be paid from the following account:

Public Health PMERP Fund 4-445901-JE-59605-2

I will submit another memo when the fund next changes.

Thank you very much for your assistance.

James E. Enstrom

NAME: James E. Enstrom

SCHOOL OF PUBLIC HEALTH
MONTHLY TIMESHEET

Revised Timesheet 1/1

EMPLOYEE #: 300308282

PAYPERIOD: Month: July Year: 2009

DEPARTMENT: EHS 1930

TITLE: _____

CAREER LIMITED APPT ACADEMIC

TITLE CODE: _____

FIXED VARIABLE

Account/fund # & Name		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	TOTAL	
1	4-445950-JE-59605-2	8	8	8	-	-	8	8	8	8	8	-	-	8	8	8	8	8	-	-	8	8	8	8	8	-	-	8	8	8	8	8	184	100%
2																																		
3																																		
4																																		

ADJUSTMENT TO PREVIOUS MONTHS TIME

YES NO Month: _____

Account/fund # & Name		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	TOTAL	%
1																																		
2																																		
3																																		
4																																		

Employee Signature: James E Enstrom
 Supervisor Signature: _____
 Supervisor Signature: _____
 Departmental Review: _____

Date: 7-6-09
 Date: _____
 Date: _____
 Date: _____

Hours Reported to Other Department(s)	
Dept: _____	Hours: _____
Dept: _____	Hours: _____
TOTAL: _____	

Absence and Overtime Codes		
V: Vacation	OT: Overtime	JD: July Duty
S: Sick	CTE: Comp Time Earned	EL: Educational Leave
H: Holiday	CTT: Comp Time Taken	LWOP: Leave Without Pay

- Timesheets are due in your Departments office on the 4th working day of the month.



**OFFICIAL FINANCIAL REPORT OF THE
UNIVERSITY OF CALIFORNIA AT LOS ANGELES**

**FSWS01B
6/14/2010 11:33:08 AM**

Exhibit 4

Fund Summary

As of May 31, 2008

Location : 4

Fund : 59605 PHILLIPMORRIS 03018872 ENSTROM 11/7 54%

Fund Type : INCEPTION

Department : 1930 ENVIRONMENTAL HEALTH SCIENCES

Account/CC	Sub	Curr Month Financial	Fiscal Year		Inception to Date		Encumbrance	Ledger Balance	Memo-Lien	Operating Balance
			Appropriation	Financial	Appropriation	Financial				
119800 FUND BALANCES UNEXPENDED-GIFTS & GRANTS										
	16		63,391.89	63,391.89						
119800		0.00	63,391.89	63,391.89	0.00	0.00	0.00	0.00	0.00	0.00
258000 PRIVATE GRANTS										
	20		19,158.00	19,158.00	661,453.00	661,453.00				
258000		0.00	19,158.00	19,158.00	661,453.00	661,453.00	0.00	0.00	0.00	0.00
431280/3Y JCCC-OPER/GENERAL RESEARCH PROGRAMS										
	08									
	9H									
431280/3Y		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
445901/JE PH-DEAN'S OFFICE-FAC RES & SUP/ENSTROM										
	02				130,887.10	130,887.10				
	03				3,029.79	3,029.79				
	06				16,733.04	16,733.04				
	08									
	9H		(3,869.43)		39,168.84	43,038.27		(3,869.43)		(3,869.43)
445901/JE		0.00	(3,869.43)	0.00	189,818.77	193,688.20	0.00	(3,869.43)	0.00	(3,869.43)
445950/JE PH-ENVIRO HLTH SCI-FAC RES & SUP/ENSTROM										
	00		75,000.00		75,000.00			75,000.00		75,000.00
	02	4,385.00	(158,514.78)	50,367.22	55,000.00	263,882.00		(208,882.00)		(208,882.00)
	03	49.06	17,825.98	1,025.77	21,350.07	4,549.86		16,800.21		16,800.21
	05		1,000.00		1,000.00			1,000.00		1,000.00
	06	582.04	(2,846.84)	7,158.35	30,000.00	40,005.19		(10,005.19)		(10,005.19)
	08		124,000.00		124,000.00			124,000.00		124,000.00
	9H	2,708.68	29,954.96	31,644.21	165,284.16	166,973.41		(1,689.25)		(1,689.25)
445950/JE		7,724.78	86,419.32	90,195.55	471,634.23	475,410.46	0.00	(3,776.23)	0.00	(3,776.23)
Fund Balance		0.00	63,391.89	63,391.89	0.00	0.00	0.00	0.00	0.00	0.00
Revenue		0.00	19,158.00	19,158.00	661,453.00	661,453.00	0.00	0.00	0.00	0.00
Expenditure		7,724.78	82,549.89	90,195.55	661,453.00	669,098.66	0.00	(7,645.66)	0.00	(7,645.66)
TOTAL		(7,724.78)	0.00	(7,645.66)	0.00	(7,645.66)	0.00	(7,645.66)	0.00	(7,645.66)



**OFFICIAL FINANCIAL REPORT OF THE
UNIVERSITY OF CALIFORNIA AT LOS ANGELES**

**FSWD06A
6/14/2010 11:31:18 AM**

Exhibit 4

Transaction Listing by TE/Trans-id

For the period May 1, 2009 to May 31, 2009

Transaction ID : 110366

Prepared By HUFF, NICETAS Effective Date 5/8/2009 Type Entry 14 Wip No 0000646609
 Phone 46935 Dept Code 3515 Trans No 110366
 Explanation 1-8 TO CLOSE AND REBUDGET FUND#59605 UNDER PI ENSTROM, JAMES WHICH ENDED ON 11/15/2007.

Chancellor's Office Use Only

File		Commitment No				Allocation Code							
Loc	TE	Account	CC	Fund	Project	Sub	Object	Source	Description	Reference	Post Date	Debit	Credit
4	14	445901	JE	59605		9H	0000		CLOSING		5/8/2009		3,869.43
4	14	445950	JE	59605		00	0000		CLOSING		5/8/2009	75,000.00	
4	14	445950	JE	59605		02	0000		CLOSING		5/8/2009		261,969.69
4	14	445950	JE	59605		03	0000		CLOSING		5/8/2009	81,117.48	
4	14	445950	JE	59605		05	0000		CLOSING		5/8/2009	1,000.00	
4	14	445950	JE	59605		06	0000		CLOSING		5/8/2009		16,287.31
4	14	445950	JE	59605		08	0000		CLOSING		5/8/2009	124,000.00	
4	14	445950	JE	59605		9H	0000		CLOSING		5/8/2009	1,008.95	
Total											282,126.43	282,126.43	

ADMINISTRATIVE INFORMATION SYSTEMS
 FSWD06A
 6/14/2010 11:31:18 AM

UCLA GENERAL ACCOUNTING DEPARTMENT



Date: Wed, 27 Jan 2010 11:06 AM
From: "Pascual, Maisie" <mpascual@ph.ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Subject: RE: Meeting w/ Dr Jackson--->Friday February 5

Great, I'll put you down for Friday, Feb 5 at 10am.

Thank you!

Maisie Pascual

Assistant to the Department Chair
Dr. Richard J. Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health
56-070 CHS 650 Charles E. Young Dr. South
Los Angeles, CA 90095-1772
Phone: (310) 206-5296 Fax: (310) 794-2106
E-mail: mpascual@ph.ucla.edu

From: James E. Enstrom [<mailto:jenstrom@ucla.edu>]
Sent: Wednesday, January 27, 2010 8:08 AM
To: Pascual, Maisie
Subject: Re: Meeting w/ Dr Jackson-->Friday February 5

Dear Maisie,

I would like to meet with Dr. Jackson on Friday morning, February 5 for at least one hour. I prefer to start at 9 AM or 10 AM or the time best for him. Please send me confirmation of the appointment.

Thank you,

Jim Enstrom
(310) 825-2048

At 03:35 PM 1/26/2010, you wrote:

Hi Dr. Enstrom,

Dr. Jackson would like to set up a meeting with you in the next few weeks re: research appointments in the department. Here are some of his availabilities:

Feb 5 (F) free entire day
Feb 8(M) 8:30am-10am

dickjackson@ucla.edu

http://www.ph.ucla.edu/ehs/prof/dick_jackson.html

Date: Tue, 12 Jan 2010 01:54 PM

To: "Jackson, Richard J." <dickjackson@ucla.edu>

From: "James E. Enstrom" <jenstrom@ucla.edu>

Subject: January 19 Meeting Re EHS Appointment Confirmed

Fine. I will be there.

At 09:44 AM 1/12/2010, you wrote:

Let's hold 9am Tuesday 19 january in my office please.

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

From: James E. Enstrom [<mailto:jenstrom@ucla.edu>]

Sent: Tuesday, January 12, 2010 8:07 AM

To: Jackson, Richard J.

Subject: January 19 Meeting Re EHS Appointment

Dear Dick,

Given our schedule conflicts today, January 19 is fine with me. I would like to see you from 9 to 10 AM next Tuesday. If that time is not good, please let me know when you are available next Tuesday.

Thanks,

Jim

Subject: RE: January 12 Meeting Re EHS Appointment

Date: Mon, 11 Jan 2010 20:10:09 -0800

From: "Jackson, Richard J." <dickjackson@ucla.edu>

To: "Enstrom, James E." <jenstrom@ucla.edu>

Hi Jim, I was a board meeting Friday and over the weekend. The only time open now is 10 to 11 tomorrow. How about the 19th.

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
http://portal.ctrl.ucla.edu/sph/institution/personnel?personnel_id=629986My UCLA SPH
[Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Friday, January 08, 2010 9:23 AM
To: Jackson, Richard J.
Subject: Fwd: January 12 Meeting Re EHS Appointment

Dear Dick,

If possible, I would like to start the meeting with you no later than 9:15 AM on January 12. I now have a 10:30 AM appointment that I would like to keep. However, my appointment with you has first priority.

Thanks for your consideration.

Jim

Date: Mon, 04 Jan 2010 21:35:06 -0800
To: "Jackson, Richard J." <dickjackson@ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: January 12 Meeting Re EHS Appointment

Yes. January 12 is fine with me. Please specify the time that is best for you and I will come to your office (56-070 CHS) then. JEE

At 07:26 PM 1/4/2010, you wrote:

Hi Jim,

This week is just packed. would the morning of Jan 12 – Tuesdaywork?

Dick J

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Friday, January 01, 2010 10:10 AM
To: Jackson, Richard J.
Subject: Request for Meeting in Early January Re EHS

Dear Dick,

Can we meet during the first week in January? I need to review my appointment in EHS with you, particularly given your comments below. Thanks for your consideration.

Happy New Year!

Jim

At 12:18 PM 12/17/2009, you wrote:

Jim, I have had a hectic two weeks and now am on the east coast. I am taking the faculty through a large number of faculty appointment and other personnel issues. We did review your and 5 other faculty and adjunct actions at the faculty meeting last Monday. As you know, your appointment had lapsed a couple of years ago. . The CVs and recent publications were reviewed for all and the sealed ballot is likely to go out in the next few days or in early January. Probably a bit late to do this now, but I would be pleased to meet with you.
Dick J

Richard J Jackson MD MPH

Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
http://www.ph.ucla.edu/ehs/prof/dick_jackson.html

Date: Wed, 16 Dec 2009 08:02:42 -0800
To: "Jackson, Richard J." <dickjackson@ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: Request for Meeting This Week Re EHS

Dear Dick,

If possible, I would like to meet with you this week, before UCLA closes for the end of December break. I would like to discuss my contribution to EHS and a couple of other items that have come up recently.

Thanks and best regards,

Jim

Date: Mon, 16 Nov 2009 16:03:53 -0800
To: "Jackson, Richard J." <dickjackson@ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: Re: Yesterday's EHS faculty meeting

Dear Dick,

Thank you for the update following the November 9 faculty meeting. Please let me know if you would like to meet me before the December meeting, so that I can explain my history in the School of Public Health, my publications since I joined EHS in 2004, and my contributions to EHS classes. As stated on page 9 of my Summary CV, I have contributed to the following three EHS classes: 1) Molecular Toxicology M245 (Hankinson & Collins) Spring 2005; 2) Environmental Statistics ESE 410B (Winer & Enstrom) Winter 2006; 3) Molecular Toxicology M245 (Hankinson & Godwin) Winter 2008.

Best regards,

Jim Enstrom
(310) 825-2048

At 11:10 AM 11/10/2009, you wrote:

Hi Jim,

Yesterday's faculty meeting went long with a lot of votes and personnel actions. We put your file and review over to the December meeting. Regarding adjunct and affiliate faculty I was asked about their contributions to the Department and to the School. Your position-class as researcher is one I don't know but right now, and at this time, I don't think we will need additional materials. It is possible that I may need a statement of commitment and planned intellectual contributions to the work of the department might end up being requested. More to follow.
Dick Jackson

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

Subject: Updated CV & Publications Ready Friday
Sent: Wednesday, November 4, 2009 10:35 AM
From: "James E. Enstrom" <jenstrom@ucla.edu>
To: "Jackson, Richard J." <dickjackson@ucla.edu>
Cc: "Housel, Barbara" <bhousel@ph.ucla.edu>

Dear Dick,

Thank you for the clarification. I will get my updated CV and recent publications to you on Friday. I look forward to meeting you soon.

Best regards,

Jim E

Subject: RE: Re: Renewal of appointment--->Send Info
Date: Tue, 3 Nov 2009 17:02:40 -0800
From: "Jackson, Richard J." <dickjackson@ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Cc: "Housel, Barbara" <bhousel@ph.ucla.edu>

Hi Jim, we have not met so I look forward to it.
We only need an up to date CV. If need be we can search the internet for the citations of your more recent publications. I have been here about a year and I am doing some organizing and clean up.
All my best,
Dick J

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

From: James E. Enstrom [<mailto:jenstrom@ucla.edu>]
Sent: Tuesday, November 03, 2009 4:48 PM
To: Jackson, Richard J.
Subject: Fwd: Re: Renewal of appointment--->Send Info

Dear Dr. Jackson,

Since I have not received a response for details from Barbara, please send me details regarding the format you wish for my dossier. Although I have prior commitments this week, I will do my best to provide you with a complete file by Friday, November 6.

Thank you very much for any assistance you can give me.

Jim Enstrom
(310) 825-2048

Date: Tue, 03 Nov 2009 12:29:51 -0800
To: "Housel, Barbara" <bhousel@ph.ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: Re: Renewal of appointment--->Send Info

Dear Barbara,

This is a quite surprising request with very short notice, but I will do my best to get you the necessary information by Friday. Please send me the format for a complete dossier. Also, please confirm that you have my dossier from my initial 2004 EHS appointment.

Thank you very much,

Jim

At 12:16 PM 11/3/2009, you wrote:

Dr. Enstrom,

It has come to my attention that under University policy it is required that all Professional Research series appointments be renewed yearly. As a Researcher you will need to provide me with a complete dossier which must be presented at the executive session of our faculty meeting. I apologize for the short notice, however the department will be holding its next faculty meeting on Monday, November 9, 2009 and will be having an executive session to review academic actions. Since your renewal is already late I need to request that you submit your file by Friday, November 6, 2009. If you have any questions please let me know. Thank you.

Barbara

Subject: RE: Request for Modification of February 10 Memo
Date: Fri, 12 Feb 2010 15:09:22 -0800
From: "Jackson, Richard J." <dickjackson@ucla.edu>
To: "James E. Enstrom" <jenstrom@ucla.edu>,
"Housel, Barbara" <bhousel@ph.ucla.edu>

Hi James,

First, we will of course do a formal reply to your memo.

The language of the memo is standard.

I will review these changes with staff after the long weekend. The office is closed today and I am on a plane going back to an Academy meeting in DC.

Good luck on the funding.

Dick J

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
http://www.ph.ucla.edu/ehs/prof/dick_jackson.html

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Friday, February 12, 2010 2:52 PM
To: Housel, Barbara
Cc: Jackson, Richard J.
Subject: Request for Modification of February 10 Memo

Dear Barbara,

On Thursday I received a UCLA deposit notice, partially shown below. It documents that I was paid 50% time in January, as I specified on my January time sheet. As I stated to you on Thursday, I do not want to be paid for February until I have a chance to review the status of all my funds and all the 2009 monthly UCLA financial statements for my funds. Consequently, I will NOT deplete all my funds as of April 20, 2010 as stated in the February 10, 2010 memo from Dr. Jackson. In addition, I am actively working on securing new funding for my EHS position and I know that I will be able to obtain some level of new funding. I will have more details on funding in March. Given these circumstances, I request modification of the February 10, 2010 memo as soon as possible. The wording of this memo is extremely harsh for an accomplished scientist who has been at the School of Public Health since December 1973. Also, I want a formal reply to my February 9, 2010 email message to Dr. Jackson, which Dr. Jackson has promised to give me.

Thank you very much for your assistance in this matter.

Jim

Date: Thu, 11 Feb 2010 05:32:48 -0800 (PST)
TO: <JENSTROM@UCLA.EDU>
From: "Pac EFT check" <POST2@MVS.AIS.UCLA.EDU>
Subject: Pac EFT check deposit made.

Financial details suppressed.

Subject: Hello James-- I received your email yesterday and am preparing a formal reply.
Date: Wed, 10 Feb 2010 17:50:15 -0800
From: "Jackson, Richard J." <dickjackson@ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Cc: "Housel, Barbara" <bhousel@ph.ucla.edu>,
"Jackson, Richard J." <dickjackson@ucla.edu>

In the interim I enclose the 60 day notice of end of employment as the result of your lack of funding.
More to follow but this notice is required by the University at this time.
Respectfully,
Richard Jackson

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)
[Public Spaces Public Health Media Project](#)

 [RJJ to James Enstrom Feb 10 2010.pdf](#)

Date: Tue, 09 Feb 2010 23:04:27 -0800
To: "Jackson, Richard J." <dickjackson@ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: Request Re EHS Accounting & UCLA Funding

February 9, 2010

Richard J. Jackson, MD, MPH
Chair, Environmental Health Sciences
UCLA School of Public Health
dickjackson@ucla.edu

Dear Dick,

Thank you very much for speaking with me last Friday regarding my faculty position in Environmental Health Sciences. I need your immediate assistance regarding my UCLA funding, which has been administered by EHS since July 2004. Based on the "June 2007 Summary of Funds" that was prepared by EHS staff (Barbara Housel), I had a balance of \$243,816 in direct and indirect cost support in five funds (05399, 45634, 59039, 59605, and 69970). As of August 2007, when I received my "June 2007 Summary of Funds," I had assumed that my funding was secure. Fund 59605 was an active source of ongoing support that paid my entire UCLA salary and my other funds, which were unrestricted, were being held in reserve for future use. Since I became a UCLA faculty member in July 1976, I have submitted monthly time sheets indicating the fund to be used to pay my salary and my salary, until recently, had always been charged to the fund that I had indicated.

During 2007, 2008, and 2009 I charged my salary to fund 59605 in good faith and I did not receive any notice that fund 59605 had ended. On December 14, 2009 I received the "October 2009 Summary of Funds" from EHS staff (Joan Klemstine). To my surprise and dismay this Summary of Funds indicated that my salary during 2009 (and possibly 2008) was charged to three of my unrestricted funds (45634, 59039, and 69970) without my knowledge or permission. I was shocked to learn that I had a remaining balance of only \$65,558 in all accounts. Then I received a January 22, 2010 email message from Joan Klemstine that fund 59605 was closed without my knowledge in May 2009. Then I received a January 25, 2010 memo from Joan Klemstine and a "December 2009 Summary of Funds" indicating that I had a remaining balance of only \$33,013 in all accounts. During January 2010 Joan Klemstine apparently charged \$33,157.90 to fund 59039 without my knowledge or permission. My last paycheck was dated January 4, 2010 and was for my December 2009 salary. I request that no further charges be made to any of my funds until I have a chance to fully understand the accounting procedures used since June 2007. In particular, I want to know who has authorized the charging of my salary to funds other than 59605 without my knowledge or permission. Based on my understanding of UCLA accounting procedures during the past 33 years, the principal investigator must give prior approval before charges can be made to a specific fund controlled by the principal investigator. If there has been any change in this policy, I have never been informed of this change.

Given what appear to have been serious accounting irregularities regarding my funds during 2009 (and possibly 2008), I request your assistance in resolving these irregularities and in providing temporary funding for my salary.

Thank you very much for your consideration.

Best regards,

Jim Enstrom
(310) 825-2048

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN: DATE:04/27/2011
 ORGANIZATION: FILING REF.: The preceding
 University of California (UCLA) Los Angeles Campus agreement was dated
 10920 Wilshire Blvd., Ste. 600 02/28/2007
 Los Angeles, CA 90024

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES:		FIXED	FINAL	PROV. (PROVISIONAL)	PRED. (PREDETERMINED)
<u>EFFECTIVE PERIOD</u>					
<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
PRED.	07/01/2010	06/30/2016	54.00	On-Campus	Organized Res.
PRED.	07/01/2010	06/30/2016	26.00	Off-Campus	Organized Res.
PRED.	07/01/2010	06/30/2016	37.00	On-Campus	Instruction
PRED.	07/01/2010	06/30/2016	26.00	Off-Campus	Instruction
PRED.	07/01/2010	06/30/2016	35.00	On-Campus	Other Spon Act
PRED.	07/01/2010	06/30/2016	26.00	Off-Campus	Other Spon Act
PROV.	07/01/2016	Until Amended		(1)	

***BASE**

Modified total direct costs, consisting of all salaries and wages, fringe benefits, materials, supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, student tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000.

(1) Use same rates and conditions as those cited for fiscal year ending June 30, 2016.

NOTE: See Special Remarks regarding Genomic Arrays.

ORGANIZATION: University of California (UCLA) Los Angeles Campus
AGREEMENT DATE: 04/27/2011

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

The fringe benefits are specifically identified to each employee and are charged individually as direct costs. The directly claimed fringe benefits are listed below.

TREATMENT OF PAID ABSENCES

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims are not made for the cost of these paid absences.

DEFINITION OF EQUIPMENT

Equipment is defined as tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

DEFINITION OF OFF-CAMPUS RATE

The off-campus rate is applicable to those projects conducted at facilities not owned or leased by the University. However, if the project is conducted in leased space and lease costs are directly charged to the project, then the off-campus rate must be used.

PROJECTS CONDUCTED ENTIRELY ON-CAMPUS OR ENTIRELY OFF-CAMPUS:

Projects conducted entirely on-campus or entirely off-campus will be applied the on-campus or off-campus rate respectively.

PROJECTS CONDUCTED PARTIALLY OFF-CAMPUS AND PARTIALLY ON-CAMPUS:

If the project involves work at both on-campus and off-campus sites, either the on-campus or off-campus rate generally should be applied, consistent with where the majority of the work is to be performed. Salary cost is generally accepted as a measure of work performed in terms of the total project.

USE OF BOTH ON-CAMPUS AND OFF-CAMPUS RATES

The use of both on-campus and off-campus rates for a given project may be justified if both of the respective rates can clearly be identified with a significant portion of salaries and wages of the project. For purposes of this provision, significant is defined as approximately 25% or more of the total costs and a project's total salary and wage costs exceed \$250,000.

The following fringe benefits are treated as direct costs:

FICA, WORKERS COMPENSATION, HEALTH PLAN CONTRIBUTION, INCENTIVE AWARD PROGRAM, DISABILITY/LIFE/UNEMPLOYMENT/DENTAL INSURANCE, EMPLOYEE SUPPORT PROGRAM, AND RETIREMENT SYSTEM CONTRIBUTION.

SPECIAL REMARKS: The NIH Policy on indirect costs pertaining to Genomic Arrays (NOT-OD-10-097) is effective as of 05/13/10.

ORGANIZATION: University of California (UCLA) Los Angeles Campus

AGREEMENT DATE: 04/27/2011

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Office of Management and Budget Circular A-21 Circulars, and should be applied to grants, contracts and other agreements covered by this Circular, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

E. OTHER:

If any Federal contract, grant or other agreement is reimbursing facilities and administrative costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected program, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of facilities and administrative costs allocable to these programs.

BY THE INSTITUTION:

University of California (UCLA) Los Angeles Campus

(INSTITUTION)

(SIGNATURE)

Peter J. Taylor

(NAME)

Chief Financial Officer

(TITLE)

5-19-11

(DATE)

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)

(SIGNATURE)

Wallace Chan

(NAME)

Director, Western Field Office

(TITLE)

4/27/2011

(DATE) 0235

HHS REPRESENTATIVE:

Jeanette Lu

Telephone:

(415) 437-7820

UNIVERSITY OF CALIFORNIA, LOS ANGELES
 PREDETERMINED FACILITIES AND ADMINISTRATIVE RATES
 FOR THE PERIOD JULY 1, 2010 THROUGH JUNE 30, 2016

EXHIBIT A

Exhibit 7

	ORGANIZED RESEARCH		INSTRUCTION		OTHER SPON ACTIVITIES	
	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS
BUILDING DEPRECIATION	5.2%		1.5%		2.0%	
INTEREST	3.8%		0.6%		0.4%	
EQUIPMENT DEPRECIATION	3.0%		0.8%		1.0%	
OPERATIONS & MAINTENANCE	14.2%		4.0%		4.1%	
LIBRARY	2.0%		4.0%		1.5%	
GENERAL ADMINISTRATION	3.8%		3.5%		4.0%	
DEPARTMENTAL ADMINISTRATION	17.9%		15.0%		17.3%	
SPONSORED PROJECTS ADMIN	4.0%		3.3%		4.5%	
STUDENT SERVICES & ADMIN	0.3%		4.2%		0.2%	
ADMINISTRATIVE COMPONENTS	28.0%	28.0%	28.0%	28.0%	28.0%	28.0%
TOTAL	54.0%	28.0%	37.0%	28.0%	38.0%	28.0%

CONCURE:



(SIGNATURE)

Chief Financial Officer

TITLE

5.19.11

DATE

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN #: 1956006143A1

DATE: February 28, 2007

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

FILING REF.: The preceding
Agreement was dated
May 14, 2003

CA

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: FACILITIES AND ADMINISTRATIVE COST RATES*

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

TYPE	EFFECTIVE PERIOD		RATE (%)	LOCATIONS	APPLICABLE TO
	FROM	TO			
PRED.	07/01/07	06/30/10	54.0	On-Campus	Organized Research
PRED.	07/01/07	06/30/10	26.0	Off-Campus	Organized Research
PRED.	07/01/07	06/30/10	37.0	On-Campus	Instruction
PRED.	07/01/07	06/30/10	26.0	Off-Campus	Instruction
PRED.	07/01/07	06/30/10	32.0	On-Campus	Other Sponsored Act.
PRED.	07/01/07	06/30/10	26.0	Off-Campus	Other Sponsored Act.
PRED.	07/01/07	06/30/10	41.0	(A)	Research
PRED.	07/01/07	06/30/10	12.0	(B)	Research
PROV.	07/01/10	UNTIL AMENDED	Use same rates and conditions as those cited for fiscal year ending June 30, 2010.		

- (A) Laboratory of Structural Biology and Molecular Medicine.
- (B) General Clinical Research Center

***BASE:**

Modified total direct costs, consisting of all salaries and wages, fringe benefits, materials, supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000.

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

AGREEMENT DATE: February 28, 2007

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

This organization charges the actual cost of each fringe benefit direct to Federal projects. However, it uses a fringe benefit rate which is applied to salaries and wages in budgeting fringe benefit costs under project proposals. The fringe benefits listed below are treated as direct costs.

TREATMENT OF PAID ABSENCES:

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims for the costs of these paid absences are not made.

DEFINITION OF EQUIPMENT

Effective 07/01/06 equipment is defined as tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

DEFINITION OF ON-CAMPUS, OFF-CAMPUS AND SPECIAL RATES

DEFINITION OF OFF-CAMPUS RATE

The off-campus rate is applicable to those projects conducted at facilities not owned or leased by the University. However, if the project is conducted in leased space and lease costs are directly charged to the project, then the off-campus rate must be used.

PROJECTS CONDUCTED ENTIRELY ON-CAMPUS OR ENTIRELY OFF-CAMPUS:

Projects conducted entirely on-campus or entirely off-campus will be applied the on-campus or off-campus rate respectively.

PROJECTS CONDUCTED PARTIALLY OFF-CAMPUS AND PARTIALLY ON-CAMPUS:

If the project involves work at both on-campus and off-campus sites, either the on-campus or off-campus rate generally should be applied, consistent with where the majority of the work is to be performed. Salary cost is generally accepted as a measure of work performed in terms of the total project.

USE OF BOTH ON-CAMPUS AND OFF-CAMPUS RATES

The use of both on-campus and off-campus rates for a given project may be justified if both of the respective rates can clearly be identified with a significant portion of salaries and wages of the project. For purposes of this provision, significant is defined as approximately 25% or more of the total costs and a project's total salary and wage costs exceed \$250,000.

OTHER SPECIAL RATES

These rates apply only to the facility or program to which they are identified. If any additional special rates become necessary the establishment of such rates should be coordinated through the cognizant negotiation agency.

The following fringe benefits are treated as direct costs:

FICA, WORKERS COMPENSATION, HEALTH PLAN CONTRIBUTION, INCENTIVE AWARD PROGRAM, DISABILITY/LIFE/UNEMPLOYMENT/DENTAL INSURANCE, EMPLOYEE SUPPORT PROGRAM, AND RETIREMENT SYSTEM CONTRIBUTION.

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

AGREEMENT DATE: February 28, 2007

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Office of Management and Budget Circular A-21 Circular, and should be applied to grants, contracts and other agreements covered by this Circular, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

BY THE INSTITUTION:

University of California (UCLA)
Los Angeles Campus

(INSTITUTION)

(SIGNATURE)

Wyatt R. Hume

(NAME)

Provost and Executive Vice President
Academic and Health Affairs

(TITLE)

(DATE)

3.19.07

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)

(SIGNATURE)

Wallace Chan

(NAME)

DIRECTOR, DIVISION OF COST ALLOCATION

(TITLE)

February 28, 2007

(DATE) 0205

HHS REPRESENTATIVE: Janet Turner

Telephone: (415) 437-7820

UNIVERSITY OF CALIFORNIA, LOS ANGELES
 FACILITIES AND ADMINISTRATIVE COST RATES
 FOR THE PERIOD JULY 1, 2007 THROUGH JUNE 30, 2010

EXHIBIT A

Exhibit 8

	ORGANIZED RESEARCH		INSTRUCTION		OTHER SPON. ACTIVITIES		LSBMM		GENERAL CLINICAL RESEARCH CENTER		
	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS					
BUILDING DEP.	5.5%		1.3%		1.3%			0.0%		0.0%	
INTEREST	2.2%		0.0%		0.0%			0.0%		0.0%	
EQUIPMENT	3.8%		1.0%		1.0%			0.0%		0.0%	
OPERATIONS & MAINT	15.0%		4.0%		2.7%			13.5%		0.0%	
LIBRARY	1.5%		4.7%		1.0%			1.5%		0.0%	
GENERAL ADMIN	4.5%		4.5%		4.5%			4.5%		2.7%	
DEPT ADMIN	18.0%		14.0%		18.3%			18.0%		6.2%	
SPON PROJ ADMIN	3.3%		3.3%		3.2%			3.3%		3.1%	
STUDENT SERV ADMIN	0.2%		4.2%		0.0%			0.2%		0.0%	
ADMIN COMPONENTS	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	12.0%	12.0%
TOTAL	54.0%	26.0%	37.0%	26.0%	32.0%	26.0%		41.0%		12.0%	

CONCUR:

Walter R. Hines

(SIGNATURE)

Provost and Executive Vice President
 Academic and Health Affairs

TITLE

3.19.07

DATE

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

VICE PRESIDENT
FINANCIAL MANAGEMENT

OFFICE OF THE PRESIDENT
1111 Franklin Street
Oakland, California 94607-5200

May 29, 2003

Mr. David S. Low
Director
Division of Cost Allocation
Department of Health and Human Services
50 United Nations Plaza, Room 347
San Francisco, California 94102

Dear Mr. Low:

Enclosed is the signed indirect cost rate agreement dated May 14, 2003, for the University of California, Los Angeles, for the fiscal years beginning July 1, 2003 through June 30, 2007. Please take all appropriate action necessary including the distribution of the agreements to the awarding organizations of the Federal Government for their use. If you have any questions, please contact me at (510) 987-9842.

Sincerely,

A handwritten signature in black ink, appearing to read "Jorge Ohy".

Jorge Ohy
Manager
Costing Policy & Analysis

Enclosure

cc: • Assistant Vice Chancellor Abeles, UCLA (with enclosure)
Principal Analyst Evans, Research Administration Office, UCOP (with enclosure)
Principal Analyst Valdivia, UCLA (with enclosure)

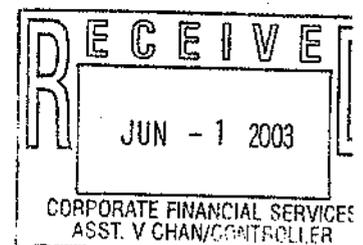


Exhibit 9

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN #: 1956006143A1

DATE: May 14, 2003

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

FILING REF.: The preceding
Agreement was dated
August 11, 1999

CA

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: FACILITIES AND ADMINISTRATIVE COST RATES*

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

TYPE	EFFECTIVE PERIOD		RATE (%)	LOCATIONS	APPLICABLE TO
	FROM	TO			
PRED.	07/01/03	06/30/04	52.5	On-Campus	Organized Research
PRED.	07/01/04	06/30/05	53.5	On-Campus	Organized Research
PRED.	07/01/05	06/30/07	54.5	On-Campus	Organized Research
PRED.	07/01/03	06/30/07	26.0	Off-Campus	Organized Research
PRED.	07/01/03	06/30/07	37.0	On-Campus	Instruction
PRED.	07/01/03	06/30/07	26.0	Off-Campus	Instruction
PRED.	07/01/03	06/30/07	32.0	On-Campus	Other Sponsored Act.
PRED.	07/01/03	06/30/07	26.0	Off-Campus	Other Sponsored Act.
PRED.	07/01/03	06/30/07	41.0	(A)	Research
PRED.	07/01/03	06/30/07	12.0	(B)	Research
PROV.	07/01/07	UNTIL AMENDED	Use same rates and conditions as those cited for fiscal year ending June 30, 2007.		

- (A) Laboratory of Structural Biology and Molecular Medicine.
- (B) General Clinical Research Center

***BASE:**

Modified total direct costs, consisting of all salaries and wages, fringe benefits, materials, supplies, services, travel and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000.

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

AGREEMENT DATE: May 14, 2003

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

This organization charges the actual cost of each fringe benefit direct to Federal projects. However, it uses a fringe benefit rate which is applied to salaries and wages in budgeting fringe benefit costs under project proposals. The fringe benefits listed below are treated as direct costs.

TREATMENT OF PAID ABSENCES:

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims for the costs of these paid absences are not made.

DEFINITION OF EQUIPMENT

Equipment is defined as tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$1,500 or more per unit.

DEFINITION OF ON-CAMPUS, OFF-CAMPUS AND SPECIAL RATES

DEFINITION OF OFF-CAMPUS RATE

The off-campus rate is applicable to those projects conducted at facilities not owned or leased by the University. However, if the project is conducted in leased space and lease costs are directly charged to the project, then the off-campus rate must be used.

PROJECTS CONDUCTED ENTIRELY ON-CAMPUS OR ENTIRELY OFF-CAMPUS:

Projects conducted entirely on-campus or entirely off-campus will be applied the on-campus or off-campus rate respectively.

PROJECTS CONDUCTED PARTIALLY OFF-CAMPUS AND PARTIALLY ON-CAMPUS:

If the project involves work at both on-campus and off-campus sites, either the on-campus or off-campus rate generally should be applied, consistent with where the majority of the work is to be performed. Salary cost is generally accepted as a measure of work performed in terms of the total project.

USE OF BOTH ON-CAMPUS AND OFF-CAMPUS RATES

The use of both on-campus and off-campus rates for a given project may be justified if both of the respective rates can clearly be identified with a significant portion of salaries and wages of the project. For purposes of this provision, significant is defined as approximately 25% or more of the total costs and a project's total salary and wage costs exceed \$250,000.

OTHER SPECIAL RATES

These rates apply only to the facility or program to which they are identified. If any additional special rates become necessary the establishment of such rates should be coordinated through the cognizant negotiation agency.

The following fringe benefits are treated as direct costs:

FICA, WORKERS COMPENSATION, HEALTH PLAN CONTRIBUTION, INCENTIVE AWARD PROGRAM, DISABILITY/LIFE/UNEMPLOYMENT/DENTAL INSURANCE, EMPLOYEE SUPPORT PROGRAM, AND RETIREMENT SYSTEM CONTRIBUTION.

INSTITUTION:
University of California (UCLA)
Los Angeles Campus

AGREEMENT DATE: May 14, 2003

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Office of Management and Budget Circular A-21 Circular, and should be applied to grants, contracts and other agreements covered by this Circular, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

BY THE INSTITUTION:

University of California (UCLA)
Los Angeles Campus

(INSTITUTION)

(SIGNATURE)

Joseph P. Mullinix

(NAME)

Senior Vice President-Business and Finance

(TITLE)

(DATE)

May 28, 2003

BY THE COGNIZANT AGENCY

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)

(SIGNATURE)

David S. Low

(NAME)

DIRECTOR, DIVISION OF COST ALLOCATION

(TITLE)

May 14, 2003

(DATE) 0235

HHS REPRESENTATIVE: Janet Turner

Telephone: (415) 437-7820

UNIVERSITY OF CALIFORNIA, LOS ANGELES
 FACILITIES AND ADMINISTRATIVE COST RATES
 FOR THE PERIOD JULY 1, 2003 THROUGH JUNE 30, 2004

EXHIBIT A
 PAGE 1 OF 3

	ORGANIZED RESEARCH		INSTRUCTION		OTHER SPON. ACTIVITIES		LSBMM		GENERAL CLINICAL RESEARCH CENTER	
	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS				
BUILDING DEP.		3.5%		1.3%		1.3%		0.0%		0.0%
INTEREST		2.2%		0.0%		0.0%		0.0%		0.0%
EQUIPMENT		4.3%		1.0%		1.0%		0.0%		0.0%
OPERATIONS & MAINT		15.0%		4.0%		2.7%		13.5%		0.0%
LIBRARY		1.5%		4.7%		1.0%		1.5%		0.0%
GENERAL ADMIN	4.5%		4.5%		4.5%		4.5%		2.7%	
DEPT ADMIN	18.0%		14.0%		18.3%		18.0%		6.2%	
SPON PROJ ADMIN	3.3%		3.3%		3.2%		3.3%		3.1%	
STUDENT SERV ADMIN	<u>0.2%</u>		<u>4.2%</u>		<u>0.0%</u>		<u>0.2%</u>		<u>0.0%</u>	
ADMIN COMPONENTS	26.0%	<u>26.0%</u>	<u>26.0%</u>	26.0%	<u>26.0%</u>	<u>26.0%</u>	26.0%	<u>26.0%</u>	12.0%	<u>12.0%</u>
TOTAL		52.50%	26.0%		37.0%	26.0%		41.0%		12.0%

CONCUR:

(SIGNATURE)

Senior Vice President-Business and Finance
 TITLE

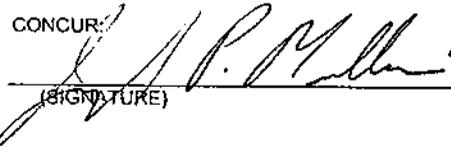
DATE

July 28, 2003

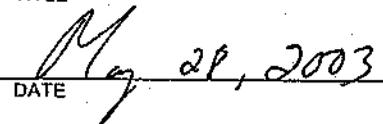
UNIVERSITY OF CALIFORNIA, LOS ANGELES
 FACILITIES AND ADMINISTRATIVE COST RATES
 FOR THE PERIOD JULY 1, 2004 THROUGH JUNE 30, 2005

EXHIBIT A
 PAGE 2 OF 3

	ORGANIZED RESEARCH		INSTRUCTION		OTHER SPON. ACTIVITIES			LSBMM	GENERAL CLINICAL RESEARCH CENTER
	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS			
BUILDING DEP.		4.5%		1.3%		1.3%		0.0%	0.0%
INTEREST		2.2%		0.0%		0.0%		0.0%	0.0%
EQUIPMENT		4.3%		1.0%		1.0%		0.0%	0.0%
OPERATIONS & MAINT		15.0%		4.0%		2.7%		13.5%	0.0%
LIBRARY		1.5%		4.7%		1.0%		1.5%	0.0%
GENERAL ADMIN	4.5%		4.5%		4.5%		4.5%		2.7%
DEPT ADMIN	18.0%		14.0%		18.3%		18.0%		6.2%
SPON PROJ ADMIN	3.3%		3.3%		3.2%		3.3%		3.1%
STUDENT SERV ADMIN	0.2%		4.2%		0.0%		0.2%		0.0%
ADMIN COMPONENTS	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%	12.0%
TOTAL		53.50%	26.0%	37.0%	26.0%	32.0%	26.0%	41.0%	12.0%

CONCUR: 
 (SIGNATURE)

Senior Vice President-Business and Finance
 TITLE


 DATE

UNIVERSITY OF CALIFORNIA, LOS ANGELES
 FACILITIES AND ADMINISTRATIVE COST RATES
 FOR THE PERIOD JULY 1, 2005 THROUGH JUNE 30, 2007

EXHIBIT A
 PAGE 3 OF 3

	ORGANIZED RESEARCH		INSTRUCTION		OTHER SPON. ACTIVITIES		LSBMM		GENERAL CLINICAL RESEARCH CENTER	
	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS	ON-CAMPUS	OFF-CAMPUS				
BUILDING DEP.		5.5%		1.3%		1.3%		0.0%		0.0%
INTEREST		2.2%		0.0%		0.0%		0.0%		0.0%
EQUIPMENT		4.3%		1.0%		1.0%		0.0%		0.0%
OPERATIONS & MAINT		15.0%		4.0%		2.7%		13.5%		0.0%
LIBRARY		1.5%		4.7%		1.0%		1.5%		0.0%
GENERAL ADMIN	4.5%		4.5%		4.5%		4.5%		2.7%	
DEPT ADMIN	18.0%		14.0%		18.3%		18.0%		6.2%	
SPON PROJ ADMIN	3.3%		3.3%		3.2%		3.3%		3.1%	
STUDENT SERV ADMIN	<u>0.2%</u>		<u>4.2%</u>		<u>0.0%</u>		<u>0.2%</u>		<u>0.0%</u>	
ADMIN COMPONENTS	26.0%	<u>26.0%</u>	<u>26.0%</u>	26.0%	<u>26.0%</u>	<u>26.0%</u>	26.0%	<u>26.0%</u>	12.0%	<u>12.0%</u>
TOTAL		54.50%	26.0%		37.0%	26.0%		41.0%		12.0%

CONCUR:

(SIGNATURE)

Senior Vice President-Business and Finance

TITLE

DATE



MEMORANDUM

Department of Environmental Health Sciences
School of Public Health
177220

February 10, 2010

James Enstrom, Ph.D.

Los Angeles, CA

Dear Dr. Enstrom:

I regret to inform you that effective April 21, 2010, you will indefinitely be laid off from your position as a Researcher in the Department of Environmental Health Sciences. You will recall that I met with you on February 5, 2010 and advised that grant support for your position is ending. This is to notify you formally that as of April 20, 2010 of this year your funds will be depleted and the Department does not have funds available to continue your appointment.

University policy on layoff includes a provision for rehire to the Department of Environmental Health Sciences until one year from the date of your layoff, April 21, 2010. During this time, if there is a vacancy in your title or title series in the Department of Environmental Health Sciences, you will be rehired if you are qualified for the position and available to begin work within a reasonable amount of time. If more than one qualified person is on layoff status, the order of rehire shall be in inverse order of layoff.

As outlined in Appendix 33 of the UCLA CALL and Academic Personnel Manual Policy 145 (APM 145), please forward a self statement and current curriculum vitae to the Academic Personnel Office, Attention: Esther Hamil. This will ensure that you are considered during any rehire and re-employment process.

I have enclosed a copy of the UCLA CALL, Appendix 33 for your reference. I have also enclosed a copy of the UCLA "Checklist of Employee Benefits Upon Indefinite Layoff", which outlines your rights and benefits. For information regarding continuation of your insurance benefits under C.O.B.R.A., please contact the Benefits Office at 310-794-0830.

Should you have any questions, please feel free to contact me. I am available at 310-206-8522

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Jackson", with a long horizontal flourish extending to the right.

Richard Jackson, M.D.
Professor and Chair, Department of Environmental Health Sciences

Cc: Hilary Godwin, Associate Dean, Academic Programs, School of Public Health
Susan Fisher, Human Resources Manager, School of Public Health
Esther Hamil, Academic Personnel Office
Barbara Housel, Administrator, Department of Environmental Health Sciences

From: "Cormier, Bill" <bcormier@capnet.ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Date: Fri, 2 Sep 2011 17:23:51 -0700
Subject: Indirect Cost Rate Concern

Dear Dr. Enstrom,

This expands upon my recent discussion with you summarizing in more detail the results of the review undertaken by the Manager-Investigations in the UCLA Audit & Advisory Services department responding principally to your concerns about the overhead rate charges to your multi-year industry-sponsored award. The purpose of this review was to inquire into possible violations of the applicable campus fund management rules.

A&AS reviewed your June 23, 2011 email requesting accounting assistance in which you asserted that UCLA incorrectly applied a higher (campus) indirect cost rate (aka, the Facilities and Administration or "F&A" Cost Rate) to the industry-sponsored grant known as "Smoking and Mortality Based on National Surveys," in all but the first grant project year, 2002-03. You contend that the off-campus rate should have been charged in all subsequent years because you did not occupy any on-campus space.

A&AS reviewed the UCLA Award Synopsis obtained through the Office of Contract and Grant Administration and UCLA Financial System data on the award and determined as follows:

The Philip Morris USA-sponsored award in question, #03018872, identified as Regental Fund Number 59605 in the UCLA Financial System, commenced September 1, 2002. The firm, fixed-price award provided cumulative funding of \$661,453 during the span of Fiscal Years 2002-03 through 2006-07. The original end date of the project was July 31, 2006, later extended through November 15, 2007. A no-cost time extension through December 31, 2007 was later approved. The final close-out of this award as indicated in the Detailed General Ledger published by the UCLA Financial System is dated May 8, 2009. (A&AS did note that you had complained that you were not notified in a timely manner by your department about the May 2009 close-out; however, the award, for the purpose of its intended research, expired in 2007.)

FY 2002-03:

According to the UCLA Award Synopsis, the off-campus indirect cost rate of 26% was applied to the grant in its first year, 2002-03. The off-campus rate apparently was based on a UCLA Request for Proposal Approval and Submission that you signed on July 3, 2002. On that proposal you had identified a warehouse in Culver City as the off-campus project address, but you explained to A&AS that you actually occupied UCLA rented space in a Westwood Village building.

FY 2003-04 through FY 2007-08:

You indicated that there was a suspension in funding in FY 2003-04 and/or FY 2004-05. For years FY 2005-06, FY 2006-07, and FY 2007-08 the UCLA Award Synopsis shows indirect cost rate assessments of 53.5%, 54.5%, and 54.00%, respectively.

The application of the on-campus indirect cost rate in FYs 2006 -07, and -08 was based on the UCLA Request for Proposal Approval and Submission, signed in May 2004, that referred to your use of "(room) A1-295 CHS (Center for Health Science) -- Although currently off-campus, some on-campus space used in future," and the UCLA Request for Proposal Approval and Submission, signed in June 2005, that simply indicated on campus space at "A1-295 CHS" with no reference to any off-campus location. Room A1-295 CHS is the mail room in the School of Public Health. When A&AS asked you about this location you explained that you actually conducted your research exclusively from your home residence when the Weyburn Avenue office space became unavailable "around 2002."

Applicable Indirect Cost Rate Guidelines

A&AS contacted OCGA and SOPH officials to confirm the applicable rules and was directed to the contract and grant "Preparation Guidelines" published on the OCGA website. Those guidelines state that the on-campus indirect cost rates should be used.

". . . in all contract, grant and subcontract proposals submitted to all external sponsors. The exceptions are those industry-sponsored studies that meet the campus definition for clinical trials and qualify for the application of a special 26% rate approved by the University of California Office of the President...The on-campus rate should be used for all research conducted in buildings owned by or leased by The Regents of the University of California. The off-campus rate should be used only when work is either done at facilities owned or leased by other organizations, or in a building for which rent is being directly charged to the project." (Emphasis added.)

According to senior research administrators contacted by A&AS, the general view is that the lower, off-campus rate presupposes that a Principal Investigator is paying rent, utilities, liability insurance, connectivity, and other physical and infrastructural costs to a non-Regental entity, because these services, which otherwise would be furnished by the UCLA campus, are instead being provided by a landlord or an outside company at which the research takes place. It is to be noted that both the on-campus and off-campus indirect cost rates account for administrative services provided by staff in the PI's home department and in the campus's central administrative units, regardless of the physical location of the research.

However, the guidance on which the off-campus rate is applicable, also published by OCGA, "How to Determine Whether to Use On or Off-Campus Facilities & Administration (F&A) Rates-formerly Known as Indirect Costs" also states that "the Off-campus rate applies to projects when there is no rent being charged." Discussions with campus and school subject-matter experts yielded mixed opinions regarding the applicability of a PI's residence as a "no rent," off-campus location that might be considered for the off-campus rate. The apparent inconsistency of this statement with the "Preparation Guidelines" set out above could not be resolved.

Conclusion

A&AS concluded that its inquiry disclosed facts that arguably might support your view against the apparent prevailing view and practice regarding the applicable indirect cost rate for the award in question. However,

A&AS also observed that as the Principal Investigator you accepted primary fiduciary responsibility for the grant. Accordingly, you were accountable for raising significant fiscal issues, including questions about the applicable indirect cost rate, with the appropriate officials of the School of Public Health and/or OCGA, in a timely manner during the active years of the award.

This review by the A&AS Manager-Investigations was thorough and professional. The review did not disclose any impropriety by the School of Public Health or other campus departments with respect to the application of indirect cost rates on the subject award and provides no basis for A&AS or the compliance office to recommend any retroactive rate adjustments as you had proposed.

I regret this report does not provide a basis for the relief you were hoping for, but I was pleased to learn your UCLA appointment has been extended.

Sincerely,

William H. Cormier, Director
UCLA Administrative Policies & Compliance

Subject: Dr Enstrom to EHS
Date: Wed, 5 May 2010 18:27:20 -0700
From: "Jackson, Richard J." <dickjackson@ucla.edu>
To: "Enstrom, James E." <jenstrom@ucla.edu>
Cc: "Housel, Barbara" <bhousel@ph.ucla.edu>,
"Godwin, Hilary" <HGodwin@mednet.ucla.edu>,
"Jackson, Richard J." <dickjackson@ucla.edu>

Dear Dr Enstrom,

As you know, the faculty of EHS needs to vote on your continued affiliation with the department. At the faculty meeting we discussed having you give a seminar but the faculty felt the review of your presentation at ARB in February was adequate.

As you know, the link for the Feb 26 is
<http://www.cal-span.org/cgi-bin/media.pl?folder=CARB>

The faculty found it very thought provoking.

We are in the process of the confidential voting at present. We should be able to give you the results of that vote within a few days.

Dick Jackson

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)

Subject: RE: Request for Resolution of My Status in EHS
Date: Fri, 23 Apr 2010 14:37:13 -0700
From: "Jackson, Richard J." <dickjackson@ucla.edu>
To: "James E. Enstrom" <jenstrom@ucla.edu>
Cc: <mpascual@ph.ucla.edu>, "Godwin, Hilary" <HGodwin@mednet.ucla.edu>, <dickjackson@ucla.edu>

By copy of this I will ask to schedule the meeting with me and Dr Godwin. The faculty has had the opportunity to watch the webcast of your presentation at ARB and did not feel the need for an in person presentation.

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
http://www.ph.ucla.edu/ehs/prof/dick_jackson.html

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Friday, April 23, 2010 10:33 AM
To: Jackson, Richard J.
Subject: Request for Resolution of My Status in EHS

Dear Dr. Jackson,

I appreciate your note about my seminar. However, I thought the seminar was going to be the way for me to update the other EHS faculty on my research before a decision is made regarding my EHS appointment. At the moment I am in limbo without a formal response to my April 1, 2010 letter to Dr. Godwin. Thus, I request a meeting as soon as possible, ideally with both you and Dr. Godwin, in order to resolve my current and future status within EHS.

Thank you very much for your consideration and assistance.

James E. Enstrom, Ph.D., M.P.H.
(310) 825-2048

At 06:11 PM 4/22/2010, you wrote:

Hello Jim,

The conference and academic schedule is just too hectic for us to arrange a seminar this late in the academic year. We will have to look to after September.

With regards,

Dick Jackson

Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
[My UCLA SPH Faculty Profile](#)

Date: Thu, 15 Apr 2010 13:34:33 -0700
To: "Pascual, Maisie" <mpascual@ph.ucla.edu>
From: "James E. Enstrom" <jenstrom@ucla.edu>
Subject: Draft Flyer for April 21 EHS Enstrom Seminar

Dear Maisie,

Please use the attached text and photo to prepare a draft flyer for my April 21 EHS Seminar. I understand you will send me your draft for my approval and/or possible changes.

Thanks for your assistance.

Jim Enstrom
(310) 825-2048

At 05:24 PM 4/13/2010, you wrote:

Hi Dr. Enstrom,

I wanted to follow up with you in regards to providing a 1 hour seminar to the department next week. I have the following options available: 3-4pm either on Wednesday (4/21) or Thursday (4/22).

If that doesn't work, we might be able to do 3-4pm on Monday (4/26), Tuesday (4/27) or noon-1pm on Wed (4/28). Please let me know. Thanks!

Maisie Pascual

UCLA Environmental Health Sciences
650 Charles E. Young Dr. South 56-070 CHS
Los Angeles, CA 90095-1772
Phone: (310) 206-5296 Fax: (310) 794-2106
E-mail: mpascual@ph.ucla.edu



EHS Seminar PM2.5 & Mortality Controversy Enstrom 041510.doc

EnstromPhotoE.JPG

Subject: at the last faculty meeting Dr Enstrom suggested we watch the video from the ARB meeting PM2.5 symposium.

Date: Mon, 8 Mar 2010 19:49:15 -0800

From: "Jackson, Richard J." <dickjackson@ucla.edu>

To: "Ambrose, Richard F." <rambrose@ucla.edu>,

"Cho, Arthur K." <acho@mednet.ucla.edu>,

"Collins, Michael D." <mdc@ucla.edu>,

"Eckhert, Curtis D." <ceckhert@ucla.edu>,

"Froines, John R." <jfroines@ucla.edu>,

"Godwin, Hilary" <hgodwin@ucla.edu>,

"Hankinson, Oliver" <ohank@mednet.ucla.edu>,

"Harber, Philip I." <pharber@mednet.ucla.edu>,

"Hinds, William" <whinds@ucla.edu>,

"Jackson, Richard J." <dickjackson@ucla.edu>,

"Kennedy, Nola" <okennedy@ucla.edu>,

"Layne, Scott P." <scott.layne@ucla.edu>,

"Nel, Andre' E." <anel@mednet.ucla.edu>,

"Que Hee, Shane" <squehee@ucla.edu>,

"Robbins, Wendie" <wrobbins@sonnet.ucla.edu>,

"Schiestl, Robert H." <rschiestl@mednet.ucla.edu>,

"Suffet, Irwin" <msuffet@ucla.edu>,

"Valentine, Jane" <jlvalentine@ucla.edu>,

"Winer, Arthur" <amwiner@ucla.edu>,

"Zhang, Zuo-Feng" <zfzhang@ucla.edu>

Cc: <jenstrom@ucla.edu>, "Detels, Roger" <detels@ucla.edu>,

"Ritz, Beate R." <britz@ucla.edu>,

"Rosenstock, Linda" <lindarosenstock@ph.ucla.edu>

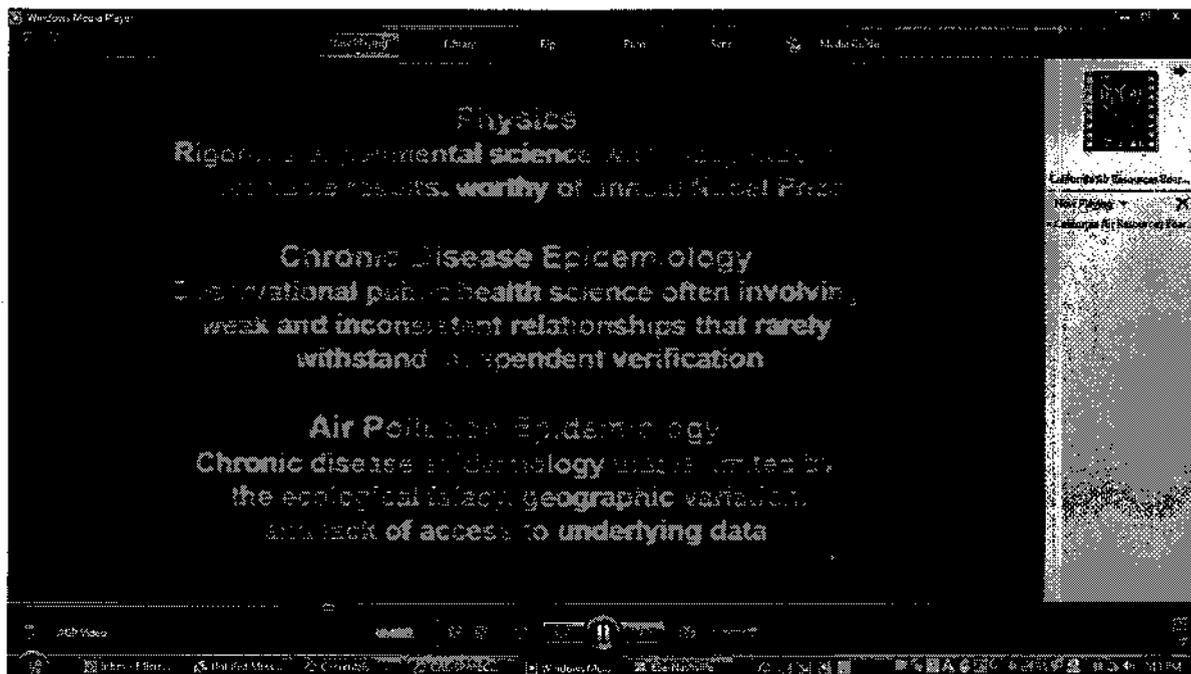
Here is the web link:

<http://www.cal-span.org/cgi-bin/media.pl?folder=CARB>

click on Feb 26.

Dr Enstrom's presentation is from 1:38:30 to 2:00 hours.

I must say, this slide is remarkable:



Richard J Jackson MD MPH
Professor and Chair, Environmental Health Sciences
UCLA School of Public Health 56-070 CHS
650 Charles E Young Drive South
Los Angeles, California 90095-1772
310 206 8522
fax (310) 794-2106
dickjackson@ucla.edu
http://www.ph.ucla.edu/ehs/prof/dick_jackson.html



ENVIRONMENTAL HEALTH SCIENCES
SCHOOL OF PUBLIC HEALTH
21-293 CHS, BOX 951772
LOS ANGELES, CA 90095-1772

June 9, 2010

James Enstrom, Ph.D.

Los Angeles, CA

Dear Dr. Enstrom:

On February 10, 2010 you received a letter (copy attached) advising you of indefinite layoff, which was to be effective April 21, 2010.

Since that time, we've examined your position as Researcher in the Department of Environmental Health Sciences. I regrettably must reconfirm that effective June 30, 2010 you will be indefinitely laid off from your position of Researcher, due to programmatic and financial reasons. Programmatically, your research is not aligned with the academic mission of the Department, and your research output and ability to secure continued funding does not meet the minimum requirements for the Department. In reviewing financial resources, the Department is unable to continue your current appointment.

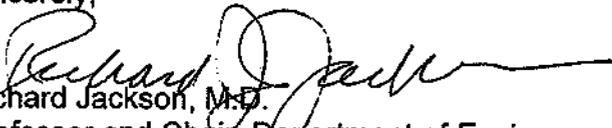
University policy on layoff includes a provision for rehire to the Department of Environmental Health Sciences until one year from the date of your layoff, June 30, 2010. During this time, if there is a vacancy in your title or title series in the Department of Environmental Health Sciences, you will be rehired if you are qualified for the position and available to begin work within a reasonable amount of time. If more than one qualified person is on layoff status, the order of rehire shall be in inverse order of layoff.

As outlined in Appendix 33 of the UCLA CALL and Academic Personnel Manual Policy 145 (APM 145), please forward a self statement and current curriculum vitae to the Academic Personnel Office, Attention: Esther Hamil. This will ensure that you are considered during any rehire and re-employment process.

I have enclosed a copy of the UCLA CALL, Appendix 33 for your reference. I have also enclosed a copy of the UCLA "Checklist of Employee Benefits Upon Indefinite Layoff", which outlines your rights and benefits. For information regarding continuation of your insurance benefits under C.O.B.R.A., please contact the Benefits Office at 310-794-0830.

Should you have any questions, please feel free to contact me. I am available at 310-825-5555.

Sincerely,


Richard Jackson, M.D.
Professor and Chair, Department of Environmental Health Sciences

Cc: Hilary Godwin, Associate Dean, Academic Programs, School of Public Health
Susan Fisher, Human Resources Manager, School of Public Health
Esther Hamil, Academic Personnel Office
Barbara Housel, Administrator, Department of Environmental Health Sciences



HILARY ARNOLD GODWIN, PROFESSOR
ASSOCIATE DEAN FOR ACADEMIC PROGRAMS
UCLA SCHOOL OF PUBLIC HEALTH
BOX 951772, 16-035 CHS
LOS ANGELES, CALIFORNIA 90095
EMAIL: hgodwin@ucla.edu
PHONE: (310) 794-1238
FAX: (310) 825-8440

June 30, 2010

James Enstrom, Ph.D.

Los Angeles, CA

Dear Dr. Enstrom:

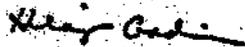
In response to your request and to ensure that you have sufficient time to make a smooth transition, I am extending your appointment in the Department of Environmental Health Sciences for an additional 60 days, through August 30th. This letter is coming under my signature because your department chair is out of the country and unable to provide you with timely written notification. However, I have discussed your request with him on the phone and he has verbally agreed to the extension of the appointment as specified herein.

This letter also serves to notify you it is the intent of the Department of Environmental Health Sciences not to reappoint you after August 30, 2010. The basis for non-reappointment is that the faculty of Environmental Health Sciences have determined that your research is not aligned with the academic mission of the Department, and that your research output and other contributions do not meet the department minimums. In addition, please note that any unexpended funds will not be available for your use after August 30, 2010.

University policy on non-reappointment (APM 137-32) provides you with the right to respond orally or in writing within 14 calendar days of the date of this letter. If you wish to respond, your response should be directed to me (Hilary Godwin, Associate Dean for Academic Programs in the School of Public Health). You will be advised in writing of the department's decision not to reappoint within 30 calendar days of this letter (i.e., by July 30, 2010).

Should you have any questions, please feel free to contact me. I am available at 310-794-1238.

Sincerely,



Hilary Godwin, Ph.D.
Associate Dean for Academic Programs,
UCLA School of Public Health

cc: Richard Jackson, Chair, Department of Environmental Health Sciences
Linda Rosenstock, Dean, UCLA School of Public Health
Barbara Housel, Administrator, Department of Environmental Health Sciences
Susan Fisher, Human Resources Manager, School of Public Health
Esther Hamil, Academic Personnel Office
Thomas Rice, Vice Chancellor for Academic Personnel



July 14, 2010

Thomas Rice, Ph.D.
 Vice Chancellor, Academic Personnel
 University of California, Los Angeles
 2138 Murphy Hall
 Los Angeles, CA 90095-1405

UCLA SCHOOL OF PUBLIC HEALTH
 650 CHARLES E. YOUNG DR. SOUTH
 5100 UHLS, BOX 951772
 LOS ANGELES, CALIFORNIA 90095-1772
 PHONE: (310) 825-5140
 FAX: (310) 825-8440

Visit us on the web at: www.ph.ucla.edu

Re: Complaint in Response to June 30, 2010 Notice of Intent to Not Reappoint and Request for Investigation of Complaint Under APM 140

Dear Vice Chancellor Rice:

This letter and its enclosures constitute my complaint in response to the enclosed June 30, 2010 Notice of Intent to not reappoint me to the academic position that I have held since July 1, 2004 in the UCLA Department of Environmental Health Sciences (EHS) and since July 1, 1976 in the UCLA School of Public Health (SPH). The Notice of Intent was written by SPH Associate Dean Hilary Godwin with the concurrence of EHS Chairman Richard J. Jackson. I request a prompt evaluation of my complaint and, if appropriate, an investigation of my complaint under APM 140. The Notice of Intent stated "The basis for non-reappointment is that the faculty of Environmental Health Sciences have determined that your research is not aligned with the academic mission of the Department, and that your research output and other contributions do not meet the department minimums," but it did not include "a copy of any materials supporting the decision not to reappoint," as provided for under APM 137-32. Thus, the entire "basis for non-reappointment" consists of one sentence and I challenge the validity of this entire sentence.

Claim 1) "your research is not aligned with the academic mission of the Department"

This is an utterly false statement because my epidemiologic research on the health effects of fine particulate air pollution (PM_{2.5}) is entirely consistent with the mission of EHS as stated on the UCLA SPH website: "The Department of Environmental Health Sciences explores the fundamental relationship between human health and the environment" (http://www.ph.ucla.edu/dept_ehs.html). Furthermore, my research is directly relevant to the overall objective of the Southern California Particle Center (SCPC) "to identify and conduct high priority research to better understand the effects of particulate matter (PM) and ensure protection of public health" (http://www.scpcs.ucla.edu/SCPCS_Yr5.pdf). SCPC is headquartered in EHS and has been lead by EHS Professor John R. Froines since 1999. Based on the funding received, publications generated, and the level of EHS faculty participation, a strong case can be made that PM health effects and mechanisms has been the top research interest of EHS since 1999.

I contend that the real reason that I am not being reappointed is because my research findings and statements regarding the health effects of PM_{2.5} and diesel PM are disliked by key EHS faculty members who recently voted on my reappointment in EHS. During the past two years I have presented in several scientific and public forums extensive evidence that PM_{2.5} and diesel PM are not killing Californians and that California Air Resources Board (CARB) regulations to reduce diesel PM are not scientifically justified. This evidence includes the enclosed December 3, 2008 CARB public comments by me and three other senior California scientists, "Request to Postpone and Reassess CARB Diesel Regulations," and the enclosed June 9, 2010 Forbes.com commentary by me and another senior California scientist, "California's diesel regulations are hot air."

My position that PM_{2.5} and diesel PM do not cause premature deaths in California disagrees with the stated position of five senior faculty members of EHS, including Dr. Jackson, Dr. Froines, and SPH Dean Linda Rosenstock. Their enclosed December 4, 2008 CARB public comments state that "... diesel pollution from trucks and buses alone will be responsible for 4,500 premature deaths in California in 2008 ... we urge CARB to adopt a strong regulation that requires cleaning up in-use on existing diesel trucks ... " In summary, I am currently engaged in a scientific controversy that should be resolved completely and correctly through the normal channels of scientific publications, presentations, and debates. This controversy has major implications for scientific integrity in air pollution epidemiology and for the California economy, as explained in the Forbes.com commentary.

Based on the evidence presented at the February 26, 2010 CARB symposium involving the leading air pollution epidemiologists from the United States and Canada, my position on PM_{2.5} and premature deaths in California is correct as of now. UC Berkeley Professor Michael Jerrett presented results based on the American Cancer Society Cancer Prevention Study (CPS II) cohort showing no relationship between PM_{2.5} and all cause mortality in California, consistent with my null 2005 findings based on the California CPS I cohort. These large studies by Dr. Jerrett and me represent the vast majority of the California-specific evidence on PM_{2.5} and premature deaths. They are summarized in an enclosed transcript and fully presented in a CARB webcast (<http://www.cal-span.org/cgi-bin/archive.php?owner=CARB&date=2010-02-26>).

As part of the EHS faculty evaluation of my position during 2010, I was supposed to present a planned April 21, 2010 EHS Seminar "Does Diesel Particulate Matter Kill Californians? Perspective on an Epidemiologic Controversy." Unfortunately, the seminar was permanently cancelled by Dr. Jackson and I was never given the opportunity to meet directly with EHS faculty members in order to explain the significance of my PM_{2.5} epidemiologic research and my other contributions to EHS. Furthermore, I have learned that in 2006 Dr. Jerrett was offered a tenured EHS faculty position that would have involved conducting exactly the same kind of epidemiologic research that I have conducted during the past six years. However, I was never considered for this tenured position and this year I have not been allowed to properly justify and defend my existing non-tenured position.

Claim 2) "your research output and other contributions do not meet the department minimums"

I vigorously dispute this negative characterization of my "research output and other contributions" to EHS, particularly since no specifics were given as to what constitutes "department minimums" for a scientist with my academic appointment. My 2005 and 2006 *Inhalation Toxicology* papers on PM_{2.5} and mortality in California have played a major role in clarifying the epidemiologic evidence on this important environmental health issue during the past five years. Furthermore, my extensive presentations at scientific and public forums during the past two years have played a major role in publicizing this epidemiologic evidence and in identifying severe flaws in the 2008 scientific basis for CARB diesel regulations. I believe that my "research output and other contributions" have been negatively characterized primarily because my PM research findings and statements conflict with the scientific views of prominent EHS faculty members who specialize in PM health effects.

As further documentation of my academic qualifications, I have been a Fellow, American College of Epidemiology (ACE) since 1981 and I have been Chair, ACE Ethics Committee since 2009. In addition, I have been biographee in Who's Who in America (WWA) since 1990. For reference, I have enclosed my original ACE and WWA certificates. These are distinctions that no other regular EHS faculty member can claim. Furthermore, I taught the statistics module for Dr. Godwin's Molecular Toxicology M245 Class in Winter 2008. Dr. Godwin never indicated any problem with my departmental contributions during 2007 or 2008, when she was EHS Chair.

As an indication of my continuing ability to conduct important epidemiologic research relevant to the mission of EHS, the enclosed July 6, 2010 letter from the Health Effects Institute (HEI) states that their Research Committee approved my preliminary application to study criteria pollutants and mortality in a major national cohort. This approval letter indicates significant interest by HEI in funding my proposal to produce new, up-to-date, and transparent results on the relationship between PM_{2.5} and mortality in California and the United States. Because there is a submission deadline of September 3, 2010, I am currently preparing a full HEI application and I hope to be able to submit it to HEI through some UCLA academic unit. Dean Rosenstock should be particularly interested in the subject matter of this application because she currently serves as a member of the HEI Board of Directors. In addition, I am currently exploring other funding opportunities for my proposed research on criteria pollutants and mortality and could possibly receive new funding beginning January 1, 2011.

For additional background, I have enclosed my February 10, 2010 layoff notice from Dr. Jackson, my related February 9-12, 2010 email correspondence with Dr. Jackson, and my April 1, 2010 letter to Dr. Godwin contesting the validity of the February 10, 2010 layoff notice, my June 9, 2010 layoff notice from Dr. Jackson. Drs. Jackson and Godwin never responded to the issues that I raised about these layoff notices. In addition, I have enclosed my June 15, 2010 letter to Dean Rosenstock, which contests the validity of both my February 10, 2010 and June 9, 2010 layoff notices, and identifies errors in both the financial and academic reasons for my layoff. Although the two layoff notices have now been superseded by the June 30, 2010 Notice of Intent to not reappoint, these enclosures provide important background details on this matter.

This letter and its enclosures present extensive documented evidence that my research is accurate and important and directly aligned with the academic mission of EHS and that my research output and other contributions to EHS have been substantial. Drs. Godwin and Jackson have presented no evidence to the contrary. In addition, there are numerous scientists at UCLA and elsewhere throughout the United States who can confirm the validity and significance of my environmental epidemiologic research and my qualifications as an epidemiologist. I have enclosed a July 13, 2010 letter of support from Dr. S. Stanley Young of the National Institute of Statistical Sciences. Furthermore, there are numerous other individuals throughout California who can vouch for the importance of my scientific research and for my qualifications to continue conducting research at UCLA. In summary, I have made a strong case that I am highly qualified for the academic appointment that I have successfully held at UCLA for the past 34 years and I deserve reappointment somewhere at UCLA.

Possible Interim Solution

A possible interim solution to the fact that I no longer have support in EHS is to transfer my academic appointment from EHS back to the SPH Office of the Dean. My appointment resided in the SPH Office of the Dean for 27 years and I conducted important epidemiologic research successfully under four Deans, including current Dean Rosenstock. Simultaneously, I will also explore the options of reassignment to another UCLA academic unit or retirement with the guaranteed right of recall by a UCLA academic unit which will allow me to continue conducting epidemiologic research. Without an academic appointment somewhere at UCLA, my research career is essentially ended for reasons that appear to be entirely unjustified and undocumented.

Thank you very much for your consideration and prompt attention to this important matter.

Sincerely yours,



James E. Enstrom, Ph.D., M.P.H.
School of Public Health
University of California
Los Angeles, CA 90095-1772
jenstrom@ucla.edu
(310) 825-2048



July 29, 2010

James Enstrom, Ph.D.

Los Angeles, CA

Dear Dr. Enstrom:

This correspondence serves as a notice of action and follows up my letter dated June 30, 2010 (copy attached) in which you were informed of the intent of Department of Environmental Health Sciences not to reappoint you after August 30, 2010. In that letter, you were also advised that your appointment had been extended to August 30, 2010.

Your written response sent to Vice Chancellor Rice has been reviewed and considered. Please be advised that you will not be reappointed August 30, 2010. As previously notified, the reason for non-reappointment is the faculty of the Department of Environmental Health Sciences has determined your research is not aligned with the academic mission of the Department, and your research output and other contributions do not meet the department requirements. Additionally, as you were previously notified, any unexpended funds will not be available for your use after August 30, 2010.

In closing, in accordance with APM – 140, you have the right to grieve this action. The required form can be found at this link: <http://www.apo.ucla.edu/Forms/Non-Senate%20Complaint%20Form.pdf>.

Sincerely

A handwritten signature in black ink, appearing to read "Hilary Godwin".

Hilary Godwin, Ph.D.
Associate Dean for Academic Programs
UCLA School of Public Health

cc: Richard Jackson, Chair, Department of Environmental Health Sciences
Linda Rosenstock, Dean, UCLA School of Public Health
Barbara Housel, Administrator, Department of Environmental Health Sciences
Susan Fisher, Manager, Human Resources, School of Public Health
Esther Hamil, Assistant Director, Academic Personnel Office
Thomas Rice, Vice Chancellor, Academic Personnel

OFFICE OF THE DEAN • UCLA School of Public Health

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ACADEMIC SENATE EXECUTIVE OFFICE
LOS ANGELES DIVISION
3125 MURPHY HALL
LOS ANGELES, CA 90095-1408

PHONE: (310) 825-3851
FAX: (310) 206-5273

April 15, 2011

Chancellor Gene D. Block
UCLA Chancellor's Office
Box 951405, 2147 Murphy Hall
Los Angeles, CA 90095-1405

Re: Possible violation of academic freedom in the non-re-appointment of James Enstrom, Ph.D.

Dear Chancellor Block,

This letter is to apprise you of our committee's unanimous concern that the decision by the School of Public Health not to re-appoint James Enstrom, Ph.D. in the Professional Research series may represent a violation of academic freedom. Dr. Enstrom has been conducting epidemiological research in the School of Public Health since the mid-1970s. Since 2004, his appointment has been in the Department of Environmental Health Sciences in the School of Public Health. Throughout this period his research has been supported by extramural funding. This extramural funding has been essential, because it provides the salary support that is necessary for the University to approve Dr. Enstrom's annual re-appointment in the Professional Research series. Indeed, because of this extended period of uninterrupted grant support, Dr. Enstrom has justified regular re-appointment in this academic series. However, last year, in spite of ongoing funding that is projected to last until the end of 2011, Dr. Enstrom was notified that he was to be laid off. Simultaneously, Dr. Enstrom was denied the opportunity to submit further grant applications. He has raised concerns that his non-reappointment was motivated by improper concerns relating to the content of his research and his criticisms of others' research.

This committee fully understands that it is the prerogative of the School of Public Health to make decisions concerning its research, teaching and service missions. Thus, if the School of Public Health has a bona fide rationale for denying Dr. Enstrom's re-appointment and for refusing to submit grant applications on his behalf, then we concur that it is within their purview to take this action. However, we also assert that UCLA has an obligation to protect the ongoing research activities of its academic staff. Its failure to do so when their research is funded by extramural agencies has the further serious consequence of preventing him (and possibly the University) from meeting his obligations to his extra-mural funders, although the University represented that it would allow him to do so when it accepted the extramural funding. Retraction of such protection, especially in cases involving individuals, like Dr. Enstrom, who have a lengthy history of research activity on campus, must be supported by strong reasons. We have not reached any conclusions about the facts of the case, but the seriousness of the consequences

of his termination, as well as the allegations he has made, raise worries. We urge you to review his case to ensure that there has been no intrusion on Dr. Enstrom's academic freedom.

Sincerely,

A handwritten signature in black ink that reads "Cameron Henderson". The signature is written in a cursive, slightly slanted style.

Chair, Academic Freedom Committee

On behalf of the members of the Academic Freedom Committee:

Irena Cronin

Esteban Dell-Angelica

Russell Jacoby

Christopher Looby

Seana Shiffrin

David Teplow

Leaniva Tuala

Elise Youn

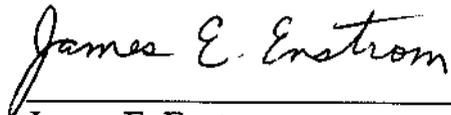
Cc: Thomas Rice, Vice Chancellor for Academic Personnel
Ann Karagozian, Chair, Academic Senate

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VERIFICATION OF COMPLAINT

I, James E. Enstrom, a citizen of the United States and resident of the State of California, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 8th day of June 2012, at Los Angeles, California.



James E. Enstrom