

July 8, 2021

VIA CERTIFIED MAIL
RETURN RECEIPTS REQUESTED
NO. 7018-2290-000-7403-3068

Douglas MacMartin
Senior Research Associate/Senior Lecturer
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Cornell University
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Re: Censorship of GeoengineeringWatch.Org

Dear Mr. MacMartin:

I represent Geoengineeringwatch.org (“GW”) and Mr. and Mrs. Dane and Joyde Wigington, founders of and leading researchers for GW, and producers of *The Dimming*, a documentary on the subject of geoengineering. I write to notify you that Facebook has flagged and censored GW’s Facebook page and the documentary based upon your misconduct and misrepresentations as a purported “Fact Checker” working in association with Science Feedback. GW and the Wigingtons have reason to believe that your actions were deliberately intended to cause Facebook to censor or delete GW’s content and the documentary from public dissemination and scientific discourse and that you undertook your actions in part out of malice and out of a desire to redirect traffic from GW to Science Feedback.

As a result, the purpose of this letter is to put you on notice that my clients have good faith reasons to believe that your actions have interfered with GW and the Wigingtons’ contract with Facebook, your conducted constitutes interference with their contract and prospective economic advantage under New York law and is defamatory. Your misrepresentations to Facebook have interfered with their dissemination of scientific theory and information on the Facebook page and platform and especially monetization of their documentary, *The Dimming*, on this and potentially other social media platforms. I write to inform you that GW and the Wigingtons are considering legal action against you for tortious interference with contract, tortious interference with prospective economic advantage under New York law, and potentially defamation of character as a result of your conduct and misrepresentations to Facebook.

Pursuant to Facebook’s policies, GW and the Wigingtons have the option to contact you and resolve this matter directly with you to communicate with Facebook directly concerning this matter and resolve it before they take any further action within Facebook or pursue other legal options available to them against you. For the reasons stated below GW urges you to contact Facebook and request that it release the flag on the GW Facebook page and especially upon *The Dimming* documentary.

As you may or may not be aware, GW has been in existence for more than a decade, since 2009. The total number of visitors to GW since it started keeping track in 2012 is more than 37 million. GW's Facebook page, since 2012, has more than 51,000 followers. The *Why in the World Are They Spraying* Facebook Page has more than 79,000 followers. The GW Photo Gallery boasts more than 131,000 followers. All of these sites and posts were created by the Wigingtons and their content is subject to copyright protection under federal law.

The content on GW and its affiliate pages constitutes free speech protected by the First Amendment and every state constitution, including New York's. Under New York law GW and the Wigingtons have a right to publish this content on their website, to use social media platforms and to enter freely into contracts with the operators of such platforms to disseminate information to the public. You have no right to interfere with their free exercise of these rights.

The Wigingtons have dedicated an extraordinary amount of time, energy and financial resources to publish content on the GW website, to disseminate it through social media platforms such as Facebook, YouTube, among others, and to maximize and monetize that dissemination through contractual agreements with companies who operate these platforms. These contracts permit the Wigingtons the option to monetize their content based on the number of visitors to their sites. Additionally, the Wigingtons go to great lengths to ensure that the content on the website is sourced and that there are verifiable, reproducible and reliable observations and scientific bases for their assertions. You may disagree with the inferences or conclusions they draw from their observations and or scientific analysis, and you may question or voice your opinion or critique their work on platforms you choose to use or in the public domain, but you have no right to censor, persuade anyone to censor, or otherwise interfere with GW's contracts with third parties or the prospective economic advantage they can gain from these efforts by misrepresenting and giving the false impression that you have checked their methodology, attempted to reproduce their results or conducted your own scientific experiment to confirm your views or rebut theirs. You clearly have not.

In fact GW suspects that you have done absolutely nothing to replicate the results of their experiments or conducted your own independent testing to verify or dispute anything stated on their sites or in *The Dimming*, nevertheless, you have communicated with Facebook, and likely others, either individually or through your association with Science Feedback, and given the false impression that you have done so, given the false impression that everything on the GW site and the documentary *The Dimming* is false and that the Wigingtons are liars and should be censored or gagged on social media platforms from disseminating their views and information to a discerning public that is more than capable of assessing the accuracy of their content or the efficacy of their scientific conclusions.

Upon information and belief, on or about March 25, 2021, you published an article entitled, "Solar engineering isn't happening or damaging the planet; aircraft contrails are formed by water vapor, not chemicals." In that article you state that a video published on YouTube (presumably *The Dimming* documentary) by Dane Wigington of GeoengineeringWatch "incorrectly claims that climate engineering is happening and that jet aircraft trails are not condensation, but dispersed particles that dim direct sunlight to mitigate the effects of global warming." You further assert that

the claims in the documentary are “pure fantasy,” yet you did nothing to discuss this matter with anyone interviewed in the video, nor attempt to replicate any of the experiments or observations in the video. Without doing so, you then contacted Facebook with the intent that Facebook flag or block this content from further dissemination, thus causing Facebook to breach its contract with the Wigingtons, causing interference with their prospective economic advantages and causing prejudice to their reputation. Such conduct does not qualify as “fact-checking” under Facebook’s policies or the Code of Principles published by the International Fact-Checking Network (IFCN).

You purport to rely on four sourced materials for your propositions, yet none of them addresses the *The Dimming* per se, the persons appearing in that documentary or the experiments and observations depicted in that documentary which you claim to debunk. Upon information and belief, you then used your status as a purported “Fact Checker” for Facebook, in association with Science Feedback, and proceeded to communicate with Facebook to brand *The Dimming* documentary as false, GW’s content as falsehood, and Dane Wigington as a perpetrator of misinformation – again without undertaking any effort to actually fact-check any specific data point contained therein or in his specific work.

The Wigingtons expected that as a scientist you would at least try to replicate the experiments in the video to ascertain whether they are capable of yielding data that supports the claim, or actually did yield such data, especially since the science of Solar Radiation Management as you well know, contemplates dispersal of chemical particles into the upper atmosphere (e.g. aluminum oxides sulfate-based aerosols)¹, patents for techniques and dispersal equipment have been filed with the U.S. Patent and Trademark Office², and elevated levels of aluminum, barium, and other associated elements have been detected across the country even in remote areas, according to Dane Wigington and GW who possesses such data and lab analyses. See e.g. Shearer, C. et al. “Quantifying expert consensus against the existence of a secret, large scale atmospheric spraying program” Environ. Res. Lett. 11 (2016) 129501, cited by you.

Moreover, you conveniently omit in your discussion – and presumably omitted from your communications with Facebook – that a number of scientists surveyed in one of the source material articles you cite, entitled, “*Quantifying expert consensus ...*”, specifically stated that they were unsure how to interpret data of elevated levels of suspected chemical elements in lab samples (particularly certain snow-surface samples) and “one expert (4%) said the results may be evidence of a SLAP” (a secret, large scale atmospheric spraying program). In fact, to the Wigingtons’ knowledge you have never explained to Facebook that there are in fact lab results that scientists surveyed do not know how to interpret or explain when it comes to this subject. On the contrary, you have given the *false* impression to Facebook that science is settled on this issue and that there is nothing further to investigate or explain. Such poor scientific inquiry and lethargic scientific curiosity does not befit someone of your purported status or caliber. Moreover, there is a growing

¹ See e.g. Effiong, U.; Neitzel, R.L. “Assessing the direct occupational and public health impacts of solar radiation management with stratospheric aerosols”. Environmental Health (2016) 15:7; Rasch, P. J.; Tilmes, S.; Turco, R. P.; Robock, A.; Oman, L.; Chen, C.; Stenchikov, G. L.; Garcia, R. R. “An overview of geoengineering of climate using stratospheric sulphate aerosols”. Philosophical Transactions of the Royal Society of London. Series A, Mathematical and Physical Sciences. 366 (2008): 4007–4037.

² See e.g. U.S. Patent No. 5,003,186 (Stratospheric Welsbach Seeding For Reduction of Global Warming); U.S. Patent No. 7,819,362 B2 (Enhanced Aerial Delivery System)

body of literature that dispersals from aircraft, whether part of a clandestine geoengineering program, or not (e.g. aircraft emissions) are having unintended consequences on the environment.

As a result of such poor scientific rigor, the Wigingtons have reason to believe that your intention was not to engage with these issues or the claims raised in the video, your intention was not to advance scientific study, scientific discourse or debate, but to simply smear and deride Mr. Wigington out of malice, censor him from disseminating his views and scientific work, and re-direct traffic to you and to websites upon which you appear. Such actions are illegal.

A legal claim and lawsuit for tortious interference under New York law arises from “(1) the existence of a valid contract between plaintiff and a third party; (2) the defendant's knowledge of that contract; (3) the defendant’s intentional procuring of the breach, and (4) damages.” *See Foster v. Churchill*, 87 N.Y.2d 744, 749-750 (Ct. App. 1996). A valid contract between the Wigingtons and Facebook exists; you were aware of that contract and relationship between them; you intentionally procured Facebook’s decision to flag and censor GW in breach of their contract; and the Wigingtons have suffered damages in the form of reduced monetization of their site and curtailment of their rights thereunder.

Even in the absence of contract New York law also recognizes a legal claim for tortious interference with prospective contractual or business relations. *See e.g. Smith v. Meridian Techs, Inc.*, 861 N.Y.S.2d 687 (App. Div. 2d Dept. 2008). “To prevail on a claim for tortious interference with business relations in New York, a party must prove (1) that it had a business relationship with a third party; (2) that the defendant knew of that relationship and intentionally interfered with it; (3) that the defendant acted solely out of malice or used improper or illegal means that amounted to a crime or independent tort; and (4) that the defendant’s interference caused injury to the relationship with the third party.” *See Amaranth LLC v.J.P. Morgan Chase & Co.*, 888 N.Y.S.2d 489, 494-495 (App. Div., 1st Dept. 2009). Again, in this case, the Wigingtons had a business relationship with Facebook; you knew of the existence of the business relationship and you intentionally interfered with it; you acted solely out of malice and used improper means (half-truths, fraud and misrepresentations) to interfere; and your actions have caused the Wigingtons injury. These precedents support the proposition that the Wigingtons may sue you for wrongful conduct that arises from your “*fraud or misrepresentation*” and “*degrees of economic pressure*” caused by you. *See id.*

Finally, defamation “is defined as the making of a false statement which tends to expose the plaintiff to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons, and to deprive him of their friendly intercourse in society.” *See Foster v. Churchill*, 87 N.Y.2d 744, 751 (Ct. App. 1996). Moreover, “[d]efamation is a predicate wrongful act for a tortious interference claim.” *See Amaranth LLC v.J.P. Morgan Chase & Co.*, 888 N.Y.S.2d 489, 494-495 (App. Div., 1st Dept. 2009).

“It is well settled that where a statement impugns the basic integrity or creditworthiness of a business, an action lies and injury is conclusively presumed.” *Id.* Upon information and belief your communications with and assertions to Facebook have impugned the basic integrity of GW and the Wigingtons and caused them injury. By disparaging GW and Dane Wigington specifically you have interfered with their rights. And as a purported “Fact Checker” you knew what the

consequences of your actions would be and you proceeded callously, recklessly and deliberately to censor and injure GW and the Wigingtons.

They urge you to contact Facebook and redress this wrong. You have the ability under Facebook's policies to persuade Facebook to lift the flag on GW's website and *The Dimming* that is preventing dissemination. You are in the unique position of directing Facebook to stop censoring the Wigingtons' views and allowing scientific discourse and debate to continue. They are not asking you to change your views or to be silenced as they have been.

The Wigingtons trust that you will be guided accordingly; they await your prompt response or action within ten (10) business days.

Respectfully,

A handwritten signature in black ink, appearing to read 'Julio C. Gomez', with a long horizontal flourish extending to the right.

Julio C. Gomez

*Counsel for GeoengineeringWatch.Org and
Dane and Joyde Wigington*