

All redactions made in accordance with § 2.2-3705.1. (10.) - Personal contact information.

Fw: January VMIAA BOD Meeting Decisions

Gussie Lord <[REDACTED]>

Mon 2/12/2024 1:50 PM

To: Wyatt, William J, Jr., 'Bill' <wyattwj@vmi.edu>

Per my previous email.

From: Anthony Moore '78 <feedback@vmiaa.org>

Sent: Thursday, February 1, 2024 4:27 PM

To: gussielord@hotmail.com <[REDACTED]>

Subject: January VMIAA BOD Meeting Decisions

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THE VMI ALUMNI ASSOCIATION
SUPPORT FOR LEAD - OTHER, SUPPORT FOR THE INSTITUTE



VMI Board of Visitors Members,

We are aware that you are in receipt of communications regarding seven suspensions and an expulsion from the VMI Alumni Association. We want you to have all the relevant information pertaining to the email you received.

It is for this reason we are sending you a detailed explanation leading to the decision by the VMI Alumni Association Board of Directors, which can be viewed below.

If you have comments or questions, please contact Ed Johnson '79, VMI Alumni Association chief operating officer, at ejohnson@vmiaa.org or 540-464-7287.

Yours in the Bonds,

Anthony U. Moore '78
President
VMI Alumni Association

VMI Class Agents, Involved Chapter Presidents, and Alumni Agencies Board Members,

Regrettably, we must share news concerning eight members of the VMI alumni family. On Jan. 20, 2024, the VMI Alumni Association Board of Directors, in a unanimous decision, affirmed its determination that one alumnus (Alumnus 1) is indefinitely expelled from the membership of the VMIAA, and seven other alumni are suspended for 10 years from the membership of the VMIAA.

The BOD took these actions based on its finding that these eight alumni participated in the scraping or harvesting and subsequent use of over 6,000 VMI alumni's private contact profiles in violation of the VMIAA bylaws and policies either directly or by sharing their personal login information. This conduct was detrimental to the interest of the VMIAA and its related VMI Alumni Agencies. It is important to set forth the timeline and facts related to this issue, which will hopefully clarify some of the misinformation that is circulating among alumni. Below, please find a comprehensive record of this matter in its entirety. We hope you find this information helpful.

Investigation

The VMIAA conducted an internal investigation into these actions and retained a third-party data analytics company to conduct a forensic analysis. This investigation found compelling evidence that Alumnus 1 used an automated high-speed device or software to inappropriately obtain contact information from thousands of profiles on VMI Ranks. He did so using his unique VMI Ranks login credentials and the unique login credentials of seven other VMI alumni. Alumnus 1 undertook these efforts after the VMIAA denied his, and several other alumni's, request for the personal email addresses of all VMI alumni. It was made clear to Alumnus 1 in that previous denial that the VMIAA intends to protect the privacy rights of VMI alumni, and their email addresses are not made available for general solicitation as Alumnus 1 requested.

In letters and emails sent in early 2023, the VMIAA notified the eight alumni that it had discovered the use of their login credentials and the scraping and harvesting efforts and asked that they explain their use of this technology. None responded to these letters and emails. On Sept. 2, 2023, receiving no response from these eight alumni and after reviewing all the evidence acquired and summarized below, the BOD found that all involved alumni, either directly or by sharing their personal login information, participated in activities in violation of the VMIAA bylaws and policies, which were detrimental to the interests of the VMIAA and its related VMI Alumni Agencies, and approved the disciplinary actions described above.

On Jan. 20, 2024, in accordance with the VMIAA bylaws, the BOD provided the eight an opportunity to appeal the BOD's original and unanimous decision of Sept. 2, 2023. After again reviewing all the evidence, the BOD affirmed its decision to expel one alumnus and for four alumni to be suspended for 10 years from the membership of the VMIAA and offered to immediately lift the 10-year suspension for three others if they meet certain conditions.

In taking these actions, the BOD's starting point was a collective agreement that honor and integrity will always be elements of the VMI experience. The basic tenets of VMI teach that unacceptable behavior cannot be tolerated, even in the most trying of situations.

The BOD, made up of 23 elected alumni across many classes and decades, takes the privacy of its members seriously and would only proceed in this direction with abundantly

clear and specific violations and a due and fair process independent and separate from any alumni opinions or grievances about the Institute or the VMIAA. This matter is about upholding the basic standards at the core of what it means to be associated with VMI.

The BOD position to protect alumni privacy is supported by the recent alumni survey, in which 96% of respondents agreed that the “VMIAA should rigorously protect the personal information and privacy of alumni in their database.”

For example, in April 2023, four alumni, including one of the eight at issue here, sued the VMIAA to turn over all the private emails of VMI alumni records based on their claim of legal rights to them. The VMIAA challenged their request, and the trial court agreed with the VMIAA's position. Those four alumni have since appealed the court's decision, and the VMIAA will continue to vigorously defend VMI alumni interests.

By way of background, all users of VMI Ranks agree to be bound by the *Terms and Conditions/Privacy Policy*, which provides, in part, as follows:

4. Passwords and Security

You are responsible for maintaining the confidentiality of any password(s) you are given to access the Site and are fully responsible for all activities that occur under your password(s). You agree to notify the Site immediately of any unauthorized use of your password(s). The administrators of the Site are concerned about the security of personal information collected from you and have taken reasonable steps to prevent unauthorized access to that information.

5. Member Conduct

By way of example, and not as a limitation, you agree that when using the communication services, you will not:

a) Use the services in connection with surveys, contests, pyramid schemes, chain letters, junk e-mail, spamming or any duplicative or unsolicited messages (commercial or otherwise).

k) Harvest or otherwise collect information about others, including physical and email addresses.

n) Use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity any directory of users of the services or other user or usage information or any portion thereof.

The BOD bylaws provide as follows:

3.11 Suspension or Expulsion. A Member may be suspended or expelled from the Corporation for conduct deemed by the Board of Directors to be detrimental to the interests of the Corporation. Such accused Member shall be furnished with a written statement of the cause for such suspension or expulsion and shall be given a reasonable opportunity to present his or her appeal of such suspension or expulsion to the Board of Directors. At its discretion, the Board of Directors may reduce a period of suspension or reinstate an expelled Member.

To appreciate the facts the BOD considered in making its decisions and its efforts to engage these eight alumni in a fair process conducted in good faith, we believe a full outline is important. The details follow.

The Details

1. On Oct. 3, 2022, Alumnus 1 requested by letter a full digital list of alumni email addresses from the VMI Alumni Agencies.
2. On Oct. 12, 2022, his request was denied, and the VMIAA's policy to protect the privacy of its members pursuant to Section 13.1-845 of the Code of Virginia was affirmed. The VMIAA's letter to Alumnus 1 stated, "*I am sure you can appreciate that the Alumni Association has an important responsibility to all the Alumni to protect the privacy of their information to assure that access to their data is strictly limited to only those areas required by law and not made available for general solicitation requests such as you have made.*"
3. From Nov. 6, 2022, through Jan. 13, 2023, VMI Ranks data records show that the login credentials of Alumnus 1 and seven other alumni were used to access and scrape or harvest the personal contact profiles of 6,080 alumni from VMI Ranks, including private email addresses.
4. On Jan. 6, 2023, The Cadet Foundation, an organization unaffiliated with the VMI Alumni Agencies, sent an email soliciting funds using at least some of the email addresses that were scraped or harvested from VMI Ranks. This email was identified as being sent from the IP address associated with Alumnus 1, who is publicly connected to the operations of The Cadet Foundation.
5. After receiving this Jan. 6 email solicitation from The Cadet Foundation, members of the VMI alumni family expressed confusion and questioned how The Cadet Foundation got their email addresses. More than one widow of an alumnus sent a check written out to The Cadet Foundation to the VMI Foundation. As recently as Jan. 20, 2024, this private contact information appears to have been used by The Cadet Foundation, and the VMIAA has received several communications expressing concern.
6. After these activities were discovered, a third-party data analytics company was engaged to conduct a forensic analysis of this activity. This analysis demonstrated that the login credentials of Alumnus 1 and the login credentials of the seven other alumni were used in these unauthorized scraping and harvesting activities. As subsequently explained to Alumnus 1, the third-party work and report confirmed the following:

Automated Scraping: *There were eight login credentials used, with the speed and order of access strongly indicating the use of an automated device to scan/harvest constituent data from more than 6,000 profiles.*

Concerted Activity/Unauthorized Access: *Identical IP addresses were used by the eight identified accounts, some of which were associated with anonymous VPN hosting providers often used to mask identity of senders. The use of these connected IP addresses is compelling evidence to support a conclusion that a concerted and coordinated effort was undertaken to obtain individual email addresses from VMI Ranks in an unauthorized manner.*

Connection to Alumnus 1: *The eight logins that were harvesting data were connected to the same IP address previously associated with logins used by Alumnus 1.*

Unauthorized Use: *An email was sent from The Cadet Foundation soliciting funds using an IP address identical to the address used by the login credentials of all eight individuals. This further supports the conclusion that Alumnus 1 was directly involved in the harvesting activity and subsequent use to solicit funds.*

7. The seven alumni shared their login credentials/passwords in violation of Section 4 of the VMI Ranks *Terms and Conditions/Privacy Policy*, which reads again:
You are responsible for maintaining the confidentiality of any password(s) you are given to access the Site and are fully responsible for all activities that occur under your password(s). You agree to notify the Site immediately of any unauthorized use of your password(s). The administrators of the Site are concerned about the security of personal information collected from you and have taken reasonable steps to prevent unauthorized access to that information.

None of the eight alumni involved notified the VMIAA that the use of their VMI Ranks login credentials in this activity was unauthorized until after the BOD acted Sept. 2, 2023.

8. On Jan. 17, 2023, the VMIAA's counsel wrote Alumnus 1, advising him of the assessment of the situation and specifically asking him to respond, directing him to cease the use of our records for his own uses and to return the data. "... *if you contend that you or TCF are not responsible for any of the actions described in this letter, please reach out to me immediately in writing with an explanation of what you contend happened.*"
9. On Feb. 24, 2023, having received no response from the Jan. 17 letter, the VMIAA's counsel sent a second letter to Alumnus 1, reiterating the previous request and informing him of the results of the forensic analysis.
10. On March 17, 2023, the seven other alumni whose login credentials had been used were sent an email. It advised them of the conclusion that they shared their login credentials with another alumnus, their access to the VMI Ranks had been turned off, and they had an opportunity to respond and clarify the issue. This email ended by stating, "... *please advise us if you did not provide your credentials to others. If you provided your credentials to others or participated in the harvesting of thousands of profiles, please contact Ed Johnson, VMI Alumni Association COO, at ejohnson@vmiaa.org to discuss this issue.*"
11. Following this outreach, none of the eight alumni denied the evidence presented and the conclusions prior to Sept. 2, 2023.
12. Given that the BOD provided ample opportunity to respond to its conclusions, and without receiving any denials of our assessments or other explanations, the BOD met on Sept. 2, 2023, to deliberate the evidence in hand, per its bylaws.
13. On Sept. 2, 2023, following a thoughtful and detailed discussion and based on the extensive evidence, the BOD unanimously approved expelling Alumnus 1 indefinitely and suspending for 10 years the seven other alumni involved.
14. On Sept. 6, 2023, in accordance with the BOD bylaws, the eight alumni were furnished with a written statement of the cause for their suspension or expulsion, and they were informed of their opportunity to present their appeal of their

suspension or expulsion to the BOD.

15. On Sept. 26, 2023, one of the eight alumni involved sent an email to the VMIAA chief operating officer, admitting he originally accepted his disciplinary action of being blocked from VMI Ranks and that he was prepared to apologize for the *"sharing of my login credentials with a fellow alumnus,"* but that he felt the suspensions were not equitable to the seven who received the same suspension. He spoke on behalf of one other involved alumnus, who is elderly and facing serious health issues, and felt the BOD was mishandling the situation and requested an apology from the VMIAA. This alumnus first reached out to the VMIAA COO via phone call Sept. 8, 2023, and was asked to put his thoughts in writing.
16. On Oct. 5, 2023, all eight alumni responded to the Sept. 6, 2023, letter and demanded additional information, as well as noted their desire to collectively appeal the BOD decisions.
17. On Oct. 24, 2023, all eight alumni were furnished with extensive materials and evidence the BOD considered at its Sept. 2, 2023, meeting.
18. On Dec. 29, 2023, the eight were notified of the Jan. 20, 2024, date for the presentation for their appeal, whether in person, via Zoom, or in writing. They were also provided with the *"VMIAA – Procedure for Disciplinary Appeal Hearing."* This procedure was carefully crafted in accordance with Virginia law to provide a fair hearing on this matter to be conducted in good faith. Pursuant to this procedure, the eight alumni were given the opportunity to present documentary evidence and witness testimony and make arguments concerning the alleged conduct or the appropriateness of their suspensions or expulsion, and they were permitted to have counsel present to advise them. In addition, they were furnished with a copy of the *Statement of the Rights, Privileges and Disciplinary Policies and Loss of Privileges of the Members of the VMI Alumni Association* so they would understand what membership rights and privileges they could lose, depending on the outcome of their appeal. They were asked to advise the BOD no later than Jan. 12, 2024, whether they would be attending the hearing and what witnesses they might wish to bring.
19. On Jan. 12, 2024, at 10:35 p.m., legal counsel for the eight sent a letter stating they *"reject all the allegations of wrongdoing against them,"* and his clients *"... propose that all parties engage a neutral retired judge from the McCammon Group to serve as the final arbiter of this dispute,"* rather than the elected BOD. He did not mention the Sept. 26, 2023, written response of one of his clients.

The same letter contained a clear threat that if the VMIAA does not agree to their proposal, *"... my clients will not be appearing on Jan. 20, 2024, for the VMIAA's proposed 'hearing' on my clients' 'appeal.' Instead, my clients will seek the assistance of a Virginia court and the appointment of a special master to govern the affairs of the VMIAA temporarily and under court supervision."*

20. On Jan. 13, 2024, the VMIAA's legal counsel responded in part with this message: *"VMIAA's Board consists of your clients' fellow alumni who volunteered to serve the association and its members. They share with your clients the common experience of being shaped by the Institute and the virtues it instills in its cadets. The evidence presented to the Board thus far indicates that your clients engaged in serious misconduct directed against VMIAA and, by extension, against the alumni as a*

whole. If your clients truly 'reject all the allegations of wrongdoing against them,' are 'looking forward to an opportunity to be heard on appeal' and believe the VMIAA Board's decision to suspend and expel them was 'baseless' and 'specious,' then their opportunity to substantiate and convince the Board of these arguments is the appeal hearing scheduled for Saturday. The Board has waited since last January for an explanation from your clients or evidence indicating that the Board's initial assessment of your clients' actions was incorrect ..."

21. On Jan. 19, 2024, the VMIAA received a letter from another of the eight alumni involved. This alumnus wrote he did not respond to the letter he received from the VMIAA March 17, 2023, because "I had no idea what 1) 'automated scraping' is, or 2) what is an 'anonymous VPN hosting provider,' or 3) any knowledge of a 'residential IP address' in Newport News, VA. or 4) an 'email sent from The Cadet Foundation soliciting funds.'"

He also stated, "I regret this apparent misunderstanding and the heavy handedness of a 10-year suspension for myself, a [72-year-old] Alumnus – which is really a life suspension given my age." He requested relief.

Jan. 20, 2024, Appeal Hearing

None of the appellants appeared in person or by Zoom at the Jan. 20 appeal hearing. This left the BOD no option other than to conduct its deliberations based on the facts and history described above.

Following the BOD deliberations, it decided unanimously:

1. To affirm the decision to expel Alumnus 1 indefinitely.
2. To offer the three alumni who offered some explanation (noted in items 15 and 21 under "The Details") and context of their involvement to the BOD: "The board offers to lift their 10-year suspension," to time served, conditioned on their certifying in writing as follows: He will (1) admit to improperly sharing his VMI Ranks login credentials; (2) identify the person to whom they provided his credentials; (3) certify that he did not understand his VMI Ranks login credentials would be used in violation of the policies governing the use of VMI Ranks to scrape and harvest over 6,000 email addresses from VMI Ranks; (4) affirm that he does not possess these email addresses and other information taken from VMI Ranks with his credentials; (5) agree that he will not share his credentials again in the future if provided access to VMI Ranks; and (6) apologize for his actions.
3. To affirm the 10-year suspensions currently assigned for the remaining four alumni involved, while still retaining their right to petition the BOD for relief in the future.

POST HEARING

On Jan. 22, 2024, VMIAA's legal counsel, on behalf of the BOD, emailed legal counsel for the eight alumni informing him of the BOD's actions.

On Jan. 26, 2024, VMIAA's legal counsel received a response from legal counsel for the eight stating, among other things, "To be clear, none of my clients will be signing any certifications, as they have already 'certified' as honorable VMI graduates that they did

nothing wrong.” This completely ignores the Sept. 26, 2023, letter of one of his clients, in which he was prepared to apologize for the “*sharing of my login credentials with a fellow alumnus ...*”

The eight have had numerous opportunities to offer evidence refuting the case made before the BOD. Failing to do so and considering the refusal of the three alumni to sign a certification and lift their 10-year suspensions, those seven suspensions will stand.

Conclusion

Thank you for your patience in working through this document. As you might imagine, this was a long, arduous, and very expensive undertaking carried out by elected BOD members and staff. This information is shared to convey the diligence and depth of the VMIAA’s investigation, the multiple opportunities given to the eight alumni to deny or correct the conclusions, and the desire to conduct the Jan. 20, 2024, appeal hearing in good faith and in a fair manner.

The BOD will continue to work diligently, not only protecting your privacy but in all aspects of supporting our Alumni and VMI.

If you have any questions, please feel free to contact Ed Johnson '79, VMI Alumni Association COO, at ejohnson@vmiaa.org or 540-464-7287.

Yours in the Bonds,

Anthony U. Moore '78
President
VMI Alumni Association

VMI Alumni Association
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