

Editorial

**USM Foundation: An Enigma, An Absurdity
Will USM Gets What It Deserve By
Manipulating Language?**

USM Foundation wants it both ways: it wants to deny its relation to USM when it wants to conceal information from open records requests, and it affirms its relation to USM when it wants to collect money from donors. In fact, USM's Foundation is, by its own language, an integral part of a state supported organization, USM. It is led by USM's president, the staff is paid by USM and USM provides it with offices, computers, etc. In any other world, USM and USM Foundations are a single organization, state supported in this instance. USM and USM Foundation may get its comeuppance, however, for its shenanigan-language in a lawsuit filed by an insurance company.

A December 13, 2013, [Hattiesburg American](#) report stated that

Southern Insurance Co., USM Alumni Association's insurer, filed a complaint for declaratory judgment Monday in U.S. District Court, requesting a ruling that it owes nothing toward the repairs of the Ogletree House because it is owned by the university and not the nonprofit association.

According to the complaint, the obligation to repair the building rests upon Southern Miss and not the association within the terms of the lease. The lease requires the association to insure the building against perils and to list Southern Miss as an insured on the policy. The complaint argues that no one requested any entity other than the association to be listed on the insurance policy with Southern Insurance.

Southern Insurance further argues that the university, as the owner of the building, has contracted with parties to repair the building —contracts which Southern Insurance is not party to.

Misleading language such as USM uses to artificially separate itself from its Foundations may catch up with it, even if the institution(s) want to interpret agreements anyway it/they choose(s). Will the University learn there are limits to deception?

The editor of usmnews.net made the case in an editorial published in the *Meridian Star* in 2005:

Thursday, November 03, 2005

DePree: USM Foundation: public or private?

Wednesday, November 2, 2005 10:33 PM CST

HATTIESBURG - All of us with an interest in the University of Southern Mississippi were

pleased when President Shelby Thames recently reported that the USM Foundation completed its first comprehensive campaign to increase the university's endowment, securing more than \$100 million.

More money means more resources for scholarships, research and facilities to improve the university. "At face value," according to Dr. Thames, \$35.5 million was in cash, not promises or pledges.

As pleased as we were to hear the good news about USM's successful campaign, we were puzzled when U.S. News & World Report recently said that the USM Foundation has an endowment of only \$2.3 million. Should we assume that U.S. News got its number wrong? Or should we assume that USM got its number wrong? Or should we assume that they both got their numbers right but the accounting reports were for different time periods?

More important, why should taxpayers and contributors have to assume anything? USM and the USM Foundation are not private property. Why not have a transparent reporting process so that taxpayers, contributors and news organizations know how much money the USM Foundation has and how it is being spent?

The law provides an opportunity for citizens to see what's going on in state institutions. It's called the Mississippi Public Records Act of 1983. The act says that "... all public records are § public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body" (Personnel records, tests and a few other things are not subject to disclosure.)

USM is, by anyone's reckoning, a "public body." However, USM administrators are fighting to keep the USM Foundation a secret institution. USM administrators refuse requests for information about the USM Foundation, claiming that it is a separate entity not under the USM Foundation, claiming that it is a separate entity not under the control of USM and therefore not subject to the Public Records Act. Compare this with what the director of development for the USM Foundation said under oath in a recent deposition.

"Who is your employer?"

"The state of Mississippi through the University of Southern Mississippi."

"To whom do you report?"

"To the president of the university."

The organizational chart of the university shows the president of the university as the immediate reporting authority for the USM Foundation. In fact, according to the director of development for the USM Foundation, "All employees, full-time of the University of Southern Mississippi, are state employees and are hired through the University of Southern Mississippi." When asked if any resources of the foundation go to other than

USM, the director of development said, "To my knowledge, no."

The two attorneys who represented the director at the deposition were USM employees. USM administrators also hired a private law firm to prevent citizens from learning how much money the USM Foundation has and how that money is used. Furthermore, since the two USM attorneys at the deposition were already on the state's payroll, the private law firm is the only legal cost reported through the Institutions of Higher Learning. Their legal fees are approximately \$20,000 and growing.

USM administrators - state employees - are spending thousands of dollars of taxpayers' money on attorneys to argue that the USM Foundation is not a part of or controlled by USM. How many student scholarships or faculty research grants could be fulfilled with the funds currently being spent to fight lawful open-records requests? Not only could the money be better spent, but the university could practice the principles it espouses to the public in its mission statements: "We make efficient and effective use of our resources, for we are accountable to our university communities, the Board of Trustees, and taxpayers."

USM administrators should open the foundation's records. In fact, the school leaders should lead the way for as much openness and honesty as possible.