Professor Todd Zywicki is vying to be the toughest critic of the Consumer Financial Protection Bureau, the new agency set up by the landmark Dodd-Frank financial reform law to monitor predatory lending practices. In research papers and speeches, Zywicki not only routinely slams the CFPB's attempts to regulate bank overdraft fees and payday lenders; he depicts the agency as a "parochial" bureaucracy that is "guaranteed to run off the rails." He has also become one of the leading detractors of the CFPB's primary architect, Elizabeth Warren, questioning her seminal research on medical bankruptcies and slamming her for once claiming Native American heritage to gain "an edge in hiring."

Zywicki's withering arguments against financial reform have earned him guest columns in *The Wall Street Journal*, *The Washington Times* and on *The New York Times*'s website. Lobbyists representing the largest consumer finance companies in the country have cited his writings in letters to regulators, and the number of times he has testified before Congress is prominently displayed on his academic website at the George Mason University School of Law.

What isn't contained in Zywicki's university profile, CV, byline or congressional testimony is the law professor's other job: he is a director of the Global Economics Group, a consulting business that boasts in a brochure that its experts have been hired by industry to influence the CFPB and other regulatory agencies. Nor does Zywicki advertise Global's client list, which includes some of the biggest names in the financial industry, among them Visa, Bank of America and Citigroup.

Last summer, Zywicki's firm was retained for $500 an hour on behalf of Morgan Drexen, a debt-relief company accused by the CFPB of deceiving consumers and charging illegal upfront fees. None of these potential conflicts of interest, however, have been disclosed during the course of Zywicki's anti-CFPB advocacy in the media or in government.

After the financial industry lost the battle to defeat Dodd-Frank, it moved quickly to minimize the law's impact during the long slog of

implementation [see Gary Rivlin, "How Wall Street Defanged Dodd-Frank," May 20]. Academics like Zywicki have played a key role in this process. As Wall Street firms seek to beat back hundreds of rules still under consideration, sponsored scholars have been at the front lines of obstructing reform.

While sponsored research groups are something of a mainstay of Beltway lobbying campaigns, Dodd-Frank has created unique incentives for companies to hire professors to represent their point of view. The first reason is that Dodd-Frank delegates broad rulemaking power for some 400 regulations to a variety of agencies, giving lawyers and lobbyists the opportunity to flood policy-makers with comments, studies and testimony that could be used to affect the outcome of the proposed rules. The Volcker Rule alone—a regulation to prevent federally insured banks from making risky investments with depositors' money—attracted more than 17,000 comments, including many from professors submitting their research.

Several of the anti–Volcker Rule academics providing comments to regulators, such as Harvard Law School professor Hal Scott, have been paid by investment banks seeking to block the rule. A nonprofit financed by Citigroup, JPMorgan Chase, Wells Fargo and other investment banks has paid Scott nearly $1.3 million in compensation since 2007, as Reuters reported in 2010. Separately, Scott has received more than $1.7 million in cash and stock from Lazard since 2006, when he was elected to the company's board. Scott's submissions to regulators neglect to mention these payments and other consulting jobs, including one for State Street Corporation, that may color the professor's outlook.

"If someone is commenting on a regulation," says the Sunlight Foundation's Bill Allison, "there's no requirement for disclosure."

The same problem exists with congressional testimony thanks to an ethics procedure change by House Republicans in 2011, which removed a requirement that those giving expert testimony reveal their private sector ties. So-called "Truth in Testimony" forms now ask only if an expert witness has received earmarks or government grants,

allowing many Wall Street–sponsored professors to assume the guise of academic neutrality. Jeff Connaughton, who worked on financial reform as the chief of staff to then-Senator Ted Kaufman, says that professors receiving undisclosed payments has become a significant issue. “Academics are hired guns like anyone else,” he says.

The second, and related, reason for the rising demand for sponsored academic research stems from a court ruling that has come to define financial reform implementation. In a decision handed down a year and a day after the Dodd-Frank legislation was signed by President Barack Obama, the DC Circuit Court scolded regulators for failing “adequately to assess the economic effects” of the Securities and Exchange Commission’s proxy access rule, which was mandated by Dodd-Frank.

The plaintiff in the case, the Business Roundtable, was represented by Gibson, Dunn & Crutcher’s Eugene Scalia, a prominent attorney and the son of Supreme Court Justice Antonin Scalia.

The decision—by a panel of Republican judges on a court that has been a hotbed of conservative legal activism—claimed that regulators had “failed to respond to substantial problems raised” by all of the comments submitted by various parties. The decision marked a new standard for financial regulators, who in the past have been given discretion to choose which comments to take into consideration when promulgating a new rule. Though the SEC had produced a detailed sixty-page analysis, this was not enough for the court. Every new rule since then has faced a heightened standard of scrutiny on economic cost-benefit analysis. As a result, financial firms have a new incentive to hire academics to flood the rulemaking process with studies arguing for modifications that will serve their interests.

* * *

Consumer advocates and independent analysts do their best to weigh in as well, but they are outgunned. Meanwhile, consulting firms dedicated to playing matchmaker between corporations and hired experts have flourished in the new regulatory environment. Director

Charles Ferguson, whose film *Inside Job* highlighted the role of sponsored professors in supporting the deregulatory policies that led to the financial meltdown in 2008, says the business of economic consulting firms that work to "source" academics for expert testimony and regulatory filings "has been going on for quite a while, and it's now quite a large industry."

National Economic Research Associates, Oliver Wyman, Charles River Associates, Cornerstone Research and the Global Economics Group are just a few of the businesses devoted to helping Wall Street firms find academics. In the DC Circuit ruling against the proxy access rule, the court criticized regulators for failing to fully consider a study written by a Yale professor. The study was sponsored by National Economic Research Associates, which counts Barclays and Morgan Stanley among recent financial industry clients, and had never been peer-reviewed.

Another such firm, Charles River Associates, advertises its services to help clients with "sophisticated economic and statistical analyses…in ways that regulators can easily understand." Charles River flips the scientific method, promising that its academic services will "make strong cases to support desired outcomes." Its roster of consultants included academics from the University of California, Berkeley; Harvard University; the University of North Carolina, Chapel Hill; and the University of Chicago. The company notes that many have worked on financial regulatory reform, including Dodd-Frank.

In its annual report, Marsh & McLennan, the parent company of Oliver Wyman, touts the role of Dodd-Frank in bringing new business to its consulting subsidiaries. Similarly, the Global Economics Group boasts about its role in financial reform implementation, noting that its academics have submitted white papers and made presentations before regulators.

More than a few scholars have taken advantage of opportunities to supplement their academic salaries. Zywicki's colleague at George Mason, J.W. Verret, has produced research for regulators. Last year, he testified before Congress on the costs of Dodd-Frank. In the past

year, Verret billed lobbying firm Greenberg Traurig (which represented the US Chamber of Commerce and Nomura Holdings, among other firms) nearly $50,000 for his consulting work, a job he did not disclose on his academic profile page. When Verret appeared before the congressional panel, he identified himself only through his academic credentials.

Jim Overdahl, an economic consultant formerly with National Economic Research Associates, told *The Nation* that professors can fetch $5,000 per letter submitted to a regulator.

Darrell Duffie, a professor of finance at Stanford University, is paid more than $200,000 in cash and stock every year for his board membership at Moody's, the rating agency. Moody's has championed him as an asset given his contacts with regulators. "Dr. Duffie has significant expertise in a number of areas that are directly relevant to the Company's core business operations…and his opinions regarding financial regulatory reform have been solicited by various arms of the US government," noted Moody's when it nominated him to its board, listing the Senate Banking Committee, the House Financial Services Committee, and the Federal Reserve as places where Duffie enjoys access.

Duffie, who has submitted comments in opposition to a number of Dodd-Frank regulations, is also a member of the Squam Lake Group, an association of economists who have offered regulatory reform ideas on issues that would affect credit rating agencies, including money market reform.

In this context, the implementation of Dodd-Frank has been a nearly impossible task. Even as regulators struggle to produce lengthy economic cost-benefit analysis reports to justify the new rules, congressional Republicans have cut the budgets of various regulatory agencies. What's more, the new standard won by Eugene Scalia has emboldened opponents of Dodd-Frank to produce more sponsored studies that can be used in legal challenges. In court, opponents of the law continue to score victories using the precedent set by the 2011 proxy access case.

* * *

How much of a difference can one academic make? Last September, a federal court knocked down a proposed regulation concerning "position limits," a provision of Dodd-Frank designed to limit the role of speculators in inflating the price of commodities like oil, wheat and aluminum. To understand how this came about, follow the path of the University of Houston's Craig Pirrong, who plays a *Zelig*-like role in the story of how this rule—hated by both the big speculators and the private exchanges in which commodities are traded—came to face delays, legal setbacks and now an uncertain future.

While numerous studies have demonstrated, and even Goldman Sachs has conceded, that excessive speculation on crude oil has boosted the price of gasoline at the pump by billions of dollars for consumers, the impetus for reform can be traced to the record spike in gas prices in June of 2008. The following month, a congressional hearing was called on the role of speculators. That's when Professor Pirrong's assault began on what would later become part of Dodd-Frank.

In his testimony, Pirrong said that "speculation is not the cause of high prices for energy products" and that there is "no evidence" to the contrary. In fact, there is an abundance of research, including a 2006 report from the Senate Homeland Security Committee, about the role of speculators in driving up the price of energy products like crude oil. Nevertheless, Pirrong pressed on, advocating against action on speculation in a report for the libertarian Cato Institute, in an opinion column for CNN Money, and in comments to major media outlets like the *Financial Times*.

As Congress continued to debate a response to the speculation problem, Terry Duffy, executive chairman of the CME Group, the for-profit company that operates the Chicago Mercantile Exchange and other private commodity exchanges, implored lawmakers to ignore the calls for reform and instead listen to Pirrong, who, he said, was among the "community of responsible scholars of energy markets."

Pressure from consumer groups and commercial end-users of commodities mounted, and Dodd-Frank ultimately included a provision calling for a position-limits rule to curb how many futures contracts a speculator can hold at one time. The law required the Commodity Futures Trading Commission, the government watchdog on commodity trading, to devise a regulation.

As with any major regulation, when the CFTC announced the rule in 2011, the agency said it would welcome public comments to help inform the process. Pirrong then submitted comments, which were similar to the remarks he made in his 2008 congressional hearing. Lobbyists weighed in as well. Trade groups for hedge funds and investment banks submitted comments citing Pirrong's writing in opposition to the regulation. Ultimately, the rule became riddled with loopholes before being released by the agency.

However, before the rule could take effect, two industry groups, the International Swaps and Derivatives Association and the Securities Industry and Financial Markets Association, filed a lawsuit in US District Court. They retained Eugene Scalia and Gibson, Dunn & Crutcher, the law firm that argued the proxy access case. Scalia and his colleague Miguel Estrada's evidence? They cited Pirrong seven times in their brief, according to court documents. And last fall, the court handed Dodd-Frank one of its most visible defeats by siding with the financial industry to bat down the proposed rule.

In every instance of Pirrong's involvement with the position-limits rule, he identified himself as a professor of finance and as the energy markets director for the Global Energy Management Institute at the Bauer College of Business at the University of Houston. While Pirrong has disclosed at times that he has contracted with private exchanges in the past, including work on soybean futures in 1997, what he has not revealed is that the institute that employs him is underwritten by the largest speculation-industry players in the country.

Pirrong's Global Energy Management Institute has been funded by Citigroup, Merrill Lynch Global Commodities (a unit of Bank of America) and the New York Mercantile Exchange (owned by the CME

Group), among others. Charles River Associates is also a sponsor. In a now-deleted portion of the University of Houston website, corporate sponsors of the Global Energy Management Institute are invited to enjoy “access to [its] activities” and “an opportunity to influence its policies and direction.” Pirrong did not respond to a request for comment for this article.

Please support our journalism. Get a digital subscription for just $9.50!

In addition, Cornerstone Research and the Global Economics Group—two more consulting businesses that help financial companies hire academics for expert testimony and regulatory work—list Pirrong as one of their affiliate professors. In the span of time that Pirrong has helped fight the position-limits rule, he has also given a speech at the Futures Industry Association’s annual expo, an industry event for speculators. How much Pirrong may have been compensated for these activities is not disclosed.

Michael Greenberger, a law professor at the University of Maryland who is in favor of greater regulation of commodity speculation, testified before Congress alongside Pirrong but says he had no idea of the latter’s financial ties to speculators. Pirrong “presents himself as an independent academic, and he’s not,” Greenberger says. If Pirrong’s funding had been disclosed during the course of his advocacy over the position-limits rule, “his influence would have been a tenth of what it is.”