

## Citizens' Oversight Projects (COPs)

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Contact: Ray Lutz

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March 30, 2015

Henry E. Brady

Dean, Goldman School of Public Policy

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CITIZENS' OVERSIGHT PROJECTS

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Dear Dean Brady:

Thank you for your email dated 3/27/2015 regarding our recent press release regarding the Goldman School emails regarding the Michael Peevey Gala event that you sponsored.

I hope this is the start of a discussion about a good course of action for the Goldman School of Public Policy and U.C. Berkeley to get out of this quagmire and repair its reputation with the public. I urged you before the GSPP-sponsored Peevey gala (and sponsor it you did, by putting the GSPP name on the invitation) to dissociate your school from the event. Despite a clear indication from the community that this was a huge issue, you continued blindly on a course of destruction without ever wavering in the least.

You allowed Mr. Peevey to cloak himself in the garb of the Goldman School when he was interested in fending off a criminal investigation. He used the cover of a fundraiser for the school to justify the sponsorship. We now know that Mr. Peevey told you (through your assistant) there was to be a Michael Peevey appreciation dinner with the excess proceeds to go to the Goldman School, and asked you to be a sponsor. You agreed, and requested your staff to have UCB cut a check for your ticket, with the thought that you would be paid back from proceeds from the event. Later, you attempted to claim that it was not a fundraiser at all, after telling me on the phone that it was, and also expecting funds to be raised from the event. Absolutely disingenuous.

When people read the invitation, they see the name of UC Berkeley and the Goldman School of Public Policy, they become assured that the event has been properly vetted and approved by the school. The public assumes there is a very high threshold to meet to get such a sponsorship message. Unfortunately, we learn that you have no procedures that are used for such a review to see if it meets the threshold, and you were dumbfounded about how to handle such a thing, according to the emails.

The reason I reached out to you on Feb. 10, 2015 was to help you avoid the calamity which ensued. You have said you were a victim but you had time and advice from me and many others that would have allowed you to correct your decision to sponsor and actively participate in the event. Yet, you persisted. You made arguments on behalf of Mr. Peevey and simultaneously attacked those who differed from you. You blew off all input – even a two page letter from Senator Hill who attempted to shake you out of your

stupor of loyalty, to no avail. I know how hard it is to make such a change in a short period of time but really, the world would rather see that you “used to be wrong, but are right now” rather than “continuing to be wrong and unable to admit it.”

Had you immediately taken my advice, you would have avoided almost all the damage you caused. I hope you will decide to turn the corner, and the sooner the better. Otherwise, you may be best put out to pasture with Mr. Peevey.

There is one course of action I can envision at this point that can partially repair these mistakes. You must publicly admit that you were wrong to endorse and sponsor the event to begin with, and then work to put positive actions in place to not let those mistakes occur again in the future. You owe me, the others you attacked, Goldman School students, UCB faculty, staff, students and alumni, plus Senator Hill, a sincere public apology.

The faster you can do this the better. If you do this in a very public way, then you can get back on the upswing. You made nothing from this event and it has been a disaster. There was no upside. Had you taken my concerns seriously two days before the event, it would have been a black eye but perhaps not a very large one.

I was disappointed to read in those emails a complete disregard for public opinion and facts that surround the tainted tenure of Mr. Peevey, and singleminded catering to loyalty. All input was blown off as "self-serving indignation" when rather we are working for the benefit of the community while you are saluting a tired and corrupt network of loyalty to persons rather than ideals. The mission statement of the Goldman School of Public Policy sounds wonderful, but actions speak louder than words. The world is listening to your actions right now.

Let me underline one important point. The correct action at this point is not a low profile to allow it to “blow over.” You must take positive steps undo the mistakes. Do not try to just hide.

Below is my response to your request that I correct my “errors” in my news release.

- (1) A more careful review of the documents recently provided to Mr. Aguirre will fully substantiate that I paid for the dinner out of my own pocket. No school funds were used.

Good, that is one loose end we did not know the answer to. I will add the fact that you say you paid for the dinner out of your own pocket to the website. However, the attempt was made during the run-up to the event, despite knowing that there was intense scrutiny surrounding it, to get the school to cover it. And then you even tried to claim that it was not a fundraiser. I can only imagine the school covers a great many questionable expenses for you if this is the shoddy way you do business. If you have it, please send a canceled check, so we can add it to our web site on this affair so as to eliminate any question. (I'm serious. Don't underestimate how important it is to completely clarify this!)

- (2) Mr. Peevey did not "dictate" what would be done with the event's proceeds, and did not "dictate" that I would be listed as a sponsor. That is not how this former member of our board, or current members, interact with the dean. I voluntarily agreed to what were only suggestions.

Perhaps the important part here to notice is that we agree that you did not organize the event, but rather agreed with the ideas put before you, and your staff proposed endorsement language for the invitations.

Since I saw no prudent consideration of any business case for the event with respect to the involvement of the GSPP, that is why the term “dictate” is still appropriate. I have yet to witness any divergence from complete loyalty to the Peevey regime. There was no questioning of whether this was a good idea, no business case presented, no approval process. It is frankly appalling that you misuse the GSPP for your own personal purposes like this. And even worse, you said several times that you could not think of any way to properly process such a request.

I think the term “dictate” is still appropriate also because in all the responses to anyone who had any concerns about this, you showed them that it was not really your doing, that Susan Kennedy had done the planning and Don Solem was accepting the money. To me, this only indicates that they dictated the terms of the deal to you, and you accepted it, rather than the idea that you were actively involved in planning it. The bad part here is that you don't really have any review process to vet such events before slapping your schools name on the invitation.

Frankly, any request of the use of the name of the school should include a discussion of the business case and what guaranteed return there may be, as well as any concern that it may be misapplied in terms of the reputation of the event. As soon as you gained ANY other input that there may be an issue in the community, then your actions should have been immediately reviewed. There was almost no downside to pulling a sponsorship and declining to accept any funds if the outlook was as dire as it was when I contacted you and explained what would ensue if you continued. (Plus, with the high cost of the event at the posh Julia Morgan Ballroom, I can't imagine the return was really worth even the slightest consternation by the public.)

I am also concerned about the conflict of interest posed by having a CPUC President sit on your advisory board when he may be approving funding to the school by the CPUC. It would be a lot of work to ensure that no conflict exists. When dealing with public funds, such conflicts are problematic and to avoid them, it is probably wise to abolish the practice of allowing CPUC Commissioners to also sit on your board of advisers, rather than requiring the prudent recusal on each and every issue that may be a conflict. It's frankly just too much work for the public to provide oversight for that, and I must say, I have little if any trust that you would do it yourself, given your recent actions and intense loyalty.

→ I need to ask you if you can tell me where the funds will go at this point. Since these funds were raised in your name, I think that unless you accept them, they must be refunded to the contributor. I don't believe they can be legally redirected for another purpose, unless the contributor authorizes it. This is not our primary concern, but I continue to receive a lot of questions about this, and it would help if I had an answer.

(3) I had no absolutely no knowledge or awareness of the \$25 million grant to the UC system prior to seeing it mentioned in Mr. Aguirre's Public Records Act request.

I don't believe that I claimed that you had personal knowledge in the press release, so I don't see it as an error that I can correct. But that only means that you have kept yourself unusually ignorant of the news concerning the UC system and Berkeley in particular. This was announced as part of the proposed San Onofre decision as early as August and approved on Nov. 20, 2014, and was included in most news reports on the \$3.3 billion settlement deal. I also understand that there was a task force developed to determine how to most effectively spend these funds within the UC system in January. By the time I spoke with you on Feb 10, the arrangement had been approved and public for nearly two months, and I am

pretty certain I mentioned it to you as a concern in our phone conversation, but as I have no transcript, I can't prove to you. Had you followed up with me at all regarding the concerns, I believe it would have been something you would remember.

So perhaps with this knowledge, you can start to see why we had additional concern about your sponsorship of the event. The fact that \$25 million was added to the settlement, apparently stemming from the improper discussions in Warsaw, Poland, for research at the UC, (discovered due to searches of their homes with felony warrants) followed by sponsorship of a dinner for the same fellow by the school that will receive the \$25 million – all this was just too much to believe was just coincidence.

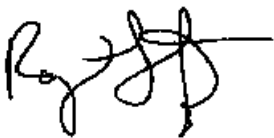
(4) Despite the fact that Mr. Aguirre's Public Records Act request was but one of many currently pending at UC Berkeley (We have had more than 300 such requests in the last few months.), the University completed a comprehensive review of our records and then provided to Mr. Aguirre 327 pages of e-mails within one month (February 25th to March 25). This timeline is fully compliant with the spirit and letter of the law, and completely consistent with the completion times of past requests.

I don't believe I made any mention of this in the press release, and so there is no “error” to correct. I will not comment further on this item but I am confident that our legal system will effectively decide any dispute.

In closing, I want to repeat that I appreciate your communication and I want you to get out of this as quickly and as cleanly as possible. Please feel free to contact me further to go over your options and the positive action on your part that may partially resolve your mistake on this affair.

Since you represent an institution of learning, I hope the institution itself can learn something from this. If the university would like to schedule an event, such as a presentation of the malfeasance at the CPUC, or perhaps a debate about the ethics of sponsoring an event for an ex-CPUC President who was under investigation, whose home was just searched with felony warrants, and who just allocated \$25 million to the school, then let me know. I would be glad to make a trip to your location to participate in any public event on the matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ray Lutz', with a long horizontal line extending to the right.

Ray Lutz  
National Coordinator  
Citizens' Oversight

P.S. This letter and your original email will be posted on our website page which contains the other disclosures.