



The Center of Cancer Systems Biology

October 17, 2014

To: Mary Beckman
Chief, Non-Profit Organizations/Public Charities Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Cc: Attorney General Martha Coakley
Senator Elizabeth Warren
Governor Deval Patrick

Subject: Statement of the Members of the Center of Cancer Systems Biology

Dear Ms. Beckman:

The Center of Cancer Systems Biology (CCSB) is internationally renowned for its work in cancer research, systems biology and radiation biology. The CCSB is the major asset of the nonprofit GeneSys Research Institute (GRI). The CCSB is supported by federal grants from diverse agencies, including the National Institutes of Health, National Cancer Institute, Department of Energy, and National Aeronautics and Space Administration (NIH, NCI, DOE, and NASA), for the purpose of uncovering cancer's origins, discovering novel cancer therapies, optimizing current cancer treatments and evaluating the public's cancer risk from radiation exposure. The CCSB at GRI is one of only a dozen NCI-funded Integrative Biology Program Centers across the US. Together these Centers form a National Consortium of expert teams to investigate cancer as a complex biological problem, integrating the most up-to-date methodologies from diverse disciplines such as physics, mathematics and bioinformatics, with those from the traditional approaches of cancer and molecular biology. Since its founding in 2006, the CCSB, under the direction of Dr. Lynn Hlatky, has been awarded approximately 30 million tax-dollars in federal grant funds. Funding from these federal awards has provided support not only for the CCSB, but also provided the majority of support for the non-profit GRI itself. Under your watch, the CCSB has been dismantled, and its employees terminated after GRI discontinued Dr. Hlatky's federal funding and shut down the science in mid-performance. This has occurred despite dozens of written and phone complaints by GRI employees over the last nine months alerting your Office of the GRI Members' disregard of their non-profit "Duties" and misuse of non-profit assets and federal funds. These destructive actions by the GRI Members have had major consequences not just for the viability of critical government-funded science and the careers of CCSB employees, but for GRI itself.

As stated in The Attorney General's Guide for Board Members of Charitable Organizations, board members of a Massachusetts non-profit "have both the privilege and the responsibility of participating in the governance of an organization that is operated not for the benefit of private individuals, but for the benefit of the public." From the start, the GRI Members, Mr. Horowitz, Mr. Newman, and Mr. Epshteyn (a family member of Mr. Newman), have been deceitful about their intentions, actions and loyalty to GRI. They have actively worked against the public benefit and the mission of GRI and against CCSB, the major asset of GRI. Mr. Newman and Mr. Horowitz are also the Founders and Directors of a rival cancer non-profit, the Newman-Lakka Cancer Foundation (NLCF), dedicated to supporting the Newman-Lakka Institute for Personalized Cancer Care (NLI). NLI was established at Tufts Medical Center (TMC) through a "Gift Agreement" pledging millions of dollars of support from NLCF. In early 2012, TMC agreed to "establish and maintain the Newman-Lakka Institute for Personalized Cancer Care in reliance upon the gift."

At the time Mr. Horowitz and Mr. Newman came to GRI, they had, on behalf of NLCF, not only recently pledged millions of dollars to Tufts Medical Center in support of NLI, but had already been in arrears on those pledged payments. These individuals were conflicted, falsely presented themselves to GRI as donors with high-level connections at Google, and were not forthcoming with their history of joint failed business ventures, evictions, bad credit and unpaid pledges. As such, they were not in a position to exercise Duty of Care, Loyalty or Obedience to GRI, neither were they able to judiciously oversee the millions of dollars in federal funds in the non-profit GRI.

Shortly after the appointment of Mr. Horowitz and Mr. Newman as controlling Members of GRI, it became apparent to individuals in positions of knowledge of the financial dealings within GRI (including the Director of Research Administration, the Senior Research Accountant, and the Director of the Center of Cancer Systems Biology), that Mr. Newman and Mr. Horowitz were engaged in self-dealing and the improper use of federal grant funds. GRI assets, personnel, and attorneys were used for the benefit of NLCF and NLI. Mr. Newman and Mr. Horowitz opened a GRI Bank of America account into which the non-profit's grant funds were deposited, with themselves as the only signatories, the only individuals who could make withdrawals, and the only individuals able to view the bank statements. After months of attempting to gain view access to the bank statements to reconcile the grant accounting, as the duties of their positions required, the Director of Research Administration and Senior Research Accountant reported their concerns to State officials.

Apart from concerns over misuse of GRI funds and assets, GRI Members were totally absorbed in their personal agenda for NLCF and NLI and indifferent to the running of GRI. It was clear by the Dec. 13th, 2013 public meeting, demanded by GRI employees, that the GRI Members and their attorney, John Dennis, had scandalously neglected the needs of GRI and its employees. Many GRI employees were not even aware they no longer worked for Steward, and had no idea what GRI was, or who was in charge. Having been in control for a good part of a year, Mr. Horowitz and Mr. Newman had not communicated with GRI employees, nor had they established any infrastructure for existing independently of Steward, as was their charge. At the meeting, Steward's Dr.

Michael Callum stated that Steward would cut off all GRI employee benefits Dec 31st despite the fact nothing was set up by GRI for these employees, blaming Mr. Horowitz and the GRI Board for their negligence. It was Dr. Hlatky who spoke up, acting as a mediator between Steward and GRI to reach a solution that was in the interest of GRI employees.

In January 2014, complaints of misconduct by GRI Members and Board were made to you, Ms. Beckman, and to your Non-Profit Organizations/Public Charities Division, by the Director of Research Administration at GRI and the Director of CCSB, followed by complaints from about a dozen other GRI employees. Shortly after her complaint in January 2014, the Director of Research Administration was “suspended” and her office immediately ransacked, the furniture removed and documents, including grant records, trashed. A couple weeks later, after publicly stating that she had not seen the Bank of America account statements, the Senior Research Accountant was also fired. Following the firing of individuals with knowledge of the financial accounts, GRI propagated the position that Steward’s recordkeeping was so poor that, among other things, GRI management could not provide individual grant account balances to principal investigators. Along with Steward, the recently terminated Director of Research Administration and Senior Research accountant were also blamed for GRI’s lacking financial documentation.

Members of the Center of Cancer Systems Biology continued to report the lack of transparency, the intimidation, deceit, self-dealing and misappropriation of funds by Horowitz and Newman to the Non-Profit Organizations/Public Charities Division of the state Attorney General’s Office. Despite our going to your Office to seek assistance, and being assured that the matter was under investigation, nothing happened to improve the situation. In fact, the absence of any obvious action by your Office to curb these abuses appears to have only emboldened the GRI Members and management to be openly aggressive, condescending, and hostile in the treatment of the CCSB team. The GRI Members and attorney waged a personal vendetta against employees who reported their misdeeds, and they particularly targeted the most vulnerable, minority women. Subsequent to complaints to your Office in January 2014: three discrimination suits (MCAD); a criminal case and other related criminal charges; two civil suits; a Union arbitration matter; a termination of tenancy and notice to quit; and an unemployment hearing (the unsuccessful bid on the part of GRI to deny unemployment benefits), occurred. In a non-profit organization with fewer than forty employees, these collective transgressions are not a “management issue,” but speak to the willful abuse of the non-profit Duties of Care, Loyalty and Obedience by the GRI Members.

Prior to the mass termination of CCSB staff Sept 30th, your office was presented with specific details of violations of use of Federal Grant Funds under Title 2 of the Code of Federal Regulations, Section 230 (2 CFR §230). Evidence was presented to you that Mr. Horowitz and Mr. Newman misused funds. Two of the many violations for unallowed charge-offs against federal grants from funding agencies, including NASA, DOE, NIH, MOVA VOCA and WIC, brought to the attention of your office are listed below.

- 1) *Federal law prohibits using grant funds for payment of consultants who are also officers of a non-profit.* GRI Member and Director of the Board, David Horowitz, has been paid as a full-time consultant since early 2013. In addition, Sandra Charton, the VP of Operations and GRI officer, has been paid as a full-time consultant since early 2014.
- 2) *Federal law prohibits the use of grant funds to be used to reorganize a non-profit.* Countless lawyers, outside accountants, appraisers and consultants have been paid specifically for reorganization purposes with grant funds.

Consideration of these violations alone would account for hundreds of thousands of dollars of federal funds misused.

In addition to the above examples of their failure of Duties of Care, Loyalty and Obedience and the specific federal regulations that were violated, the GRI Members continued to maintain a culture of deceit, intimidation and non-transparency, despite our requests for oversight from your Office. A vivid example of the nontransparent, “insiders only” climate on the part of GRI Members (which your Office clearly warns against) was the selection of new “independent” board members. On July 3, 2014, after a year of pleas for new governance, David Horowitz announced to GRI staff via email, the addition two new independent directors, Mark Zuroff and Thomas Dahl. The email stated, “The addition of new independent directors to GRI’s Board has been made in response to discussions with the Public Charities Division of the Massachusetts Attorney General’s Office.” But given the history, it comes as no surprise to us that the claims of independence of the new Directors proved disingenuous. Thomas Dahl is by no means “independent”, having been President, Director and COO of Viurx Pharmaceuticals. David Horowitz founded Viurx Pharmaceuticals, which folded in 2008, leaving Mr. Horowitz unemployed until joining GRI in 2013. Mr. Horowitz and Mr. Newman, along with Sami Hashim (all currently Directors of Newman Lakka Cancer Foundation), were Directors of the failed Viurx. Mr. Horowitz and Mr. Newman appear to have served a variety of other roles in Viurx, including President, CEO, Secretary and Treasurer. In addition, the second new GRI Director, Mr. Zuroff, is also not independent, having previously worked with GRI lawyer John Dennis. Given that the appointment of these new “independent” board members was made with the concurrence of your Office, it is disappointing that even this action smacks of self-dealing, continued non-transparency and deceit on the part of GRI’s Members.

The retaliatory actions against employees who have demanded nothing but transparency from the Members and accountability for their gross negligence has placed GRI on the brink of collapse, and burdened it with enormous legal liability. As of September 30, 2014, those who complained to your office about the lack of integrity and continued self-dealing actions of the Members have been terminated. It also is apparent to us that the GRI attorney, John Dennis, in his dealings with your office, has acted in his own interest and in the interests of the GRI Members and Directors, and against the interests of GRI, its mission its assets and its employees.

As the agency of the Commonwealth charged with protecting the public's interest in the activities of nonprofits, it is unfathomable to us that the Non-Profit Organizations/Public Charities Division has not acted to remove GRI's Members and Board and replace them with qualified independent individuals who are willing to work openly to steer GRI back to its venerable scientific course. The inaction of your office has instead aided and abetted the destruction of this world-renowned Cancer Center, not to mention critically impaired the progress of our groundbreaking cancer research. We are extremely disappointed and angered by your inaction to curb the abuses by GRI's Members who have continuously violated their role as trustees, and by your support of these private individuals over the obvious public benefit of cancer research which impacts millions.

Sincerely,



Afshin Beheshti, PhD



Shiva Kalinga, PhD



Michael J. Peluso III



Maria Bello



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