

Formal Complaint

by

Angelo Armenti, Jr., President

California University of Pennsylvania (Cal U)

against

John C. Cavanaugh, Chancellor

Pennsylvania State System of Higher Education (PASSHE)

March 21, 2012

Executive Summary

I assert that Chancellor Cavanaugh, with the help of certain PASSHE employees and newspaper reporters, has over a period of time engaged in a series of actions that hurt my University, denigrate my achievements, undermine my effectiveness, diminish my authority, attack my credibility, and damage my reputation and that of California University in the eyes of my fellow presidents, the entire PASSHE staff, the Board of Governors, and the larger public: 1) by making arbitrary and capricious decisions based on un-rebutted anonymous complaints that slander me and my University; 2) by putting forth repeated misrepresentations of the University's financial situation when, in fact, compared to many PASSHE universities, Cal U is arguably better positioned financially and structurally for the long term to deliver our statutory mission of "...high quality education at the lowest possible cost to the students;" and 3) by retaliating against me for exercising my First Amendment right to hold and express opinions different from his on matters of importance to California University, PASSHE and the public good. The balance of this document will provide evidence in support of these assertions.

Background

This formal complaint is submitted to Mr. Guido Pichini, Chair, PASSHE Board of Governors, and Ms. Marie Conley Lammando, Chair, HR committee of the PASSHE Board of Governors, as follow up to the email I sent to Mr. Pichini (Exhibit 1) on the evening of March 8, 2012 regarding the Chancellor's handling of the "Kirk Holman" matter. The underlying cause of this formal complaint, however, is Chancellor Cavanaugh's email to me (Exhibit 2) of February 8, 2012, and his disingenuous actions both before and since sending me that email.

The Manager Furlough Matter

As you will see from Exhibit 2, the chain begins with a two-line email to me from Chancellor Cavanaugh stating: "After consultation with the Board, I am verifying that you are to take no personnel action without explicit approval from me or my staff until further notice."

By way of background, there was great fear on our campus at that time because on January 24, 2012—just fifteen (15) days earlier—I had described to a large gathering of faculty and managers at Faculty Convocation my plan for dealing with the enormous budget cuts we were

experiencing. I informed them that, starting in Spring 2012, we would begin a process of management furloughs under the *Nonrepresented Employee Severance Program* policy and procedures recently approved by the Board of Governors, in order to reduce our recurring expenditures for this and future fiscal years. I went on to say that, for FY 2013 and FY 2014, we may need to take added measures, involving represented non-faculty, and then as a last resort, faculty employees—only if needed—to lower recurring costs and achieve the requisite operating margin range (2% to 4%).

When I ended my remarks that day in front of the largest faculty convocation crowd in my 20 years at Cal U, there was not a single question asked. The faculty quietly exited the room.

Thirteen (13) days later, and just one day before the Governor’s budget address, our internal newspaper—*The California Journal*—carried a story under a banner headline: “Faculty Convocation Examines Challenges and Opportunities.” The following quotes appeared:

The privatization of public higher education is no longer a gradual process, and the current business model governing PASSHE universities is financially unsustainable, President Armenti said. “Change has happened so abruptly that we now face a crisis. We must pursue a survival strategy (emphasis added) that preserves our mission of providing high quality education at the lowest possible cost to students — while at the same time achieving a balanced budget.”

It will take drastic action to achieve that dual goal, he said. To reduce recurring expenditures in this and future fiscal years, the University will furlough a number of non-union employees under the “Nonrepresented Employee Severance Program” enacted last fall by the PASSHE Board of Governors.

Strategic reductions in the non-union workforce will occur this semester. This will involve reorganizing the University’s daily operations to save money while working to avoid negative impacts on its mission. Additional furloughs affecting nonfaculty unionized staff members may occur in fiscal year 2013. To protect the academic core, the retrenchment of tenured faculty members will occur only as a last resort.

The next day, February 7, 2012, Gov. Corbett gave his budget address in which he proposed an additional 20% cut in State appropriation for PASSHE for FY 2013.

The day after that, February 8th, the *Observer-Reporter* published a front-page story by Scott Beveridge about our plans to furlough managers, right alongside a report on the Governor’s budget address—creating the false impression that one story was the direct result of the other. That same day, the *Pittsburgh Tribune Review* used a similar trick on page 8, to conflate two stories related only as coincidences in time, with no causal connection whatsoever.

Richard Gazarik, the *Tribune Review* reporter, whom I’ve never met or spoken to, referred to my faculty convocation address the previous month and quoted me as saying “We must pursue a survival strategy,” a quote taken directly from the *California Journal* article cited above.

As seen in Exhibit 2, three days after receiving the Chancellor's directive to take no personnel action without explicit approval, I wrote back and told him the delay in acting on the furloughs was creating major problems on campus because the public announcement had been made weeks earlier and some managers—including those in positions not even being considered for abolishment—began to express great concern. Judging by his response below, he was apparently not impressed with my argument as to why he should retract his directive.

The Chancellor actually responded with two statements:

1. "I sent a directive that there would be NO press statements or comments connected to the Governor's budget address until we got a statement to you. Your press release violated that." [In what follows, I will refer to this item as Hurdle 1.]
2. "Your financial situation is exactly that. It may or may not be a personnel problem at core. We will be taking the same approach with CalU as we do with any university by working with it to do a full fiscal analysis with the institution. Vice Chancellor Dillon will be working with you and your staff along these lines. And as we have done in other situations, we will work closely with the institution on solutions and implementation." [In what follows, I will refer to this item as Hurdle 2.]

In responding that same day to his first point, I related that there was no press release, and that the reporter's story was based on my January 24th faculty convocation remarks and our internal newspaper's coverage about it, both of which occurred before the Governor's budget address.

The Chancellor's actual directive, cited above, was an email sent on February 6th as follows:

"The Governor will be presenting his budget proposal tomorrow. It will not be good for us. Therefore, the Board and I ask that you not make *any* public comments until we get you an official statement later tomorrow afternoon."

The *Observer-Reporter* story by Scott Beveridge also contained the following quote:

"Kindl said Armenti had no comment Tuesday on the furloughs. She referred comment about Corbett's budget announcement to the State System."

Almost one month passed without any acknowledgement from the Chancellor that, in fact, I had not violated his directive. So, during my 3-hour long "Evaluation" meeting with Chancellor Cavanaugh and Trustee Chair Bob Irey on March 8, 2012, I reminded the Chancellor that I had not violated his directive and requested a retraction from him. Only after I pressed the issue did he finally say "I'll take your word for it," with a dismissive tone that suggested otherwise. It is clear that Chancellor Cavanaugh finds it very difficult to admit he was mistaken.

Because of the facts stated above, I can and do state categorically that, not only was there no press release, I also made no public comments regarding the Governor's budget address. These facts show that, in Hurdle 1, Chancellor Cavanaugh made false accusations against me which now, almost six weeks later, he still refuses to acknowledge.

Despite my repeated attempts to get a straight answer from Chancellor Cavanaugh on when he would retract his directive, he coolly showed no urgency whatsoever regarding my concerns, specifically, the serious negative effects the ongoing delay was having on the morale of my 116 managers, only ten (10) of whom were on “the list.” I shared with him the essence of an email that I received from Dee Stalvey the day before on March 7, 2012 relating to a specific employee who was quite distressed by the ongoing uncertainty regarding furloughs. Here is that email:

President: Just wanted you to know that I saw Lisa McBride in the parking lot the other day. She told me that Lynn Baron had been to her office, upset and crying over whether or not she was one of the managers who would be furloughed. Lynn is worried about her medical benefits since her husband has health issues. Lisa told me that she told Lynn that she was not privy to the furlough listing, so she has no idea if Lynn is on that listing or not. She advised Lynn to stay calm and that none of these actions are personal or disciplinary. Lisa noted that “not knowing” who will be furloughed is causing stress for many managers because many are agonizing over whether they are on the furlough list.

I also became concerned that—until fully explained—the coincidental timing of two stories on a single newspaper page in two different newspapers might have been seen as a possible violation, not of the Chancellor’s directive regarding the Governor’s budget, but rather as a violation of the new Communications Protocol that had been distributed by Chancellor Cavanaugh to the presidents on January 4, 2012, in which the Chancellor wrote in part:

“I wanted to alert you to a new communications protocol with the BOG that I was asked yesterday to implement. I would ask that you assist me in this by providing as much as you can with respect to issues on your planning horizon and other matters that have any potential for controversy.” (Emphasis added.)

It immediately occurred to me that the story of imminent manager furloughs at Cal U could have been seen as “news with controversy potential,” especially if Chancellor Cavanaugh had failed to alert the Board of Governors to the fact that manager furloughs had been in the planning stages between Cal U staff and Office of the Chancellor staff for more than a year!

I was certain that Cal U had lived up to its part in supporting the new protocol because, as the “Management Furlough Chronology” (Exhibit 3) shows, prior to Chancellor Cavanaugh’s email directing me **not** to proceed with the management furloughs, we had been engaged for almost 13 months (January 13, 2011 to February 8, 2012) with personnel in the Office of the Chancellor, planning for the furloughs that would be put into effect on Friday, February 10, 2012.

Our “Rationale for Proposed Manager Furloughs” (Exhibit 4) contains the philosophical basis for our proposed manager furlough program, together with a detailed listing of a) each proposed manager position to be abolished, b) which work will no longer be done, and c) which work will be shifted to other managers in other positions that are not going to be furloughed at this time. As proposed in this document, a total of ten (10) out of some one-hundred-sixteen (116) manager positions (8.6%) would be abolished at this time, saving a minimum of \$1.2 million/year each year going forward. This is actually a small fraction of the budget shortfall that looms ahead of us this year alone. For that reason, it is critical that we move forward without additional delay.

Recall that Chancellor Cavanaugh *initially* offered two reasons for why he had, in effect, suspended my authority to implement a long-planned manager furlough process. In doing so, he essentially created what I thought of as two separate hurdles to be overcome—before he would agree to retract his email of February 8, 2012. Unfortunately, as I soon learned, even as I dealt with the first two hurdles using facts at my disposal, he brushed aside my rebuttals and **blithely added—with no apparent embarrassment whatsoever—four additional hurdles that would need to be overcome! And here they are, followed by my responses:**

Hurdle 3: The Chancellor was very concerned about “bench strength.” I.e., if we furloughed some managers, could we be sure we hadn’t lost skills needed to do the work?

After checking to see if he was joking and, after realizing that he appeared to be completely serious, I wondered what sort of presidents he was accustomed to dealing with. To my mind, his ‘bench strength’ concern would have been obvious to a first year rookie, much less a president completing his 20th year in the job. I actually wondered if he was trying to provoke me with a not-so-subtle insult. In fact at this point I chose not to respond at all for I was suddenly sure that he could not possibly be on the level, that something else was clearly afoot, and that he was not being truthful with me.

Hurdle 4: The Chancellor said he needed me to “provide background” on the process used to identify the positions that would be abolished as part of the manager furlough plan.

Our discussion about Hurdle 4 gave me additional reason to conclude that something totally underhanded was going on. When the Chancellor told me I needed to prepare a report for Gary Dent describing the process we used regarding the manager furloughs, I told him that I had learned just a few days earlier—by accident—that Gary Dent was expecting a report from me. I learned it—not from Gary Dent, but during a call on a completely different topic with Michael Mottola. At the end of the call—because I had heard nothing from anyone about when we would be permitted to go forward with the manager furloughs—I casually asked Michael if he knew what was going on, since I had not heard anything for a month. He said, “Well, you are supposed to send a report to Gary Dent about how you planned for the furloughs. Didn’t anybody tell you?” I thanked him and, a few days later, I saw Gary Dent in Harrisburg and asked him what was happening with the manager furloughs. He told me he was expecting a report from me. I said, “Yes, I know. I heard it ‘through the grapevine.’” He then exclaimed, “Didn’t John tell you?” I wondered whether this fiasco was the product malice, incompetence or both.

Several hours after my “evaluation” meeting ended, I received a few emails from the Chancellor in follow up to our discussion earlier that day (Exhibit 5). One paragraph began like this:

“To expedite the follow-up process, I would like to proceed as follows.”

Despite what appeared on the surface to be a very helpful suggestion, I soon realized that what Chancellor Cavanaugh proposed in order to expedite the process would, in fact, do the opposite!

Consider this snippet taken from the Chancellor’s proposal:

The personnel issues will be dealt with separately from the broader finance issues in order to expedite the process. My responsibilities along these lines relate to the fact that I must certify to the Board that any layoffs/furloughs/retrenchments are being done for reasons considered appropriate by the Board. That is, I have to assure the Board that any such actions are *not* being done in lieu of appropriate disciplinary actions, in lieu of appropriate personnel evaluations, or for personal reasons. (Emphasis added)

As most people know, it is impossible to prove a negative—and yet that is precisely what the Chancellor was asking me to do with this, his latest version of Hurdle 4. Note that earlier, during our meeting, I only had to “provide background.” However, a few hours later, and exactly one month into the process, he is asking me to prove a negative. Because I know he is an educated man, I know that he knows without doubt that there is no way I or anyone can clear Hurdle 4, as he has now defined it. At that moment I knew two things for certain: 1) Chancellor Cavanaugh is not serious about removing the hurdles; and 2) Chancellor Cavanaugh, for reasons that I now believe I can prove, is very angry with me.

At the end of my “evaluation” meeting as I was leaving, the Chancellor asked Bob Irey to stay. Later, Bob Irey called to tell me that, according to the Chancellor, the entire process of clearing the hurdles should only take “another two to four weeks” to complete. Recall that during our three-hour meeting earlier that day, I pressed the Chancellor hard to learn how much longer this process would take, and he would not give me a straight answer. But, as soon as I heard what he told Bob Irey, a light went off in my head and I knew for certain that the thing I had begun to suspect—and confided to Dee Stalvey—several weeks earlier was definitely true: Chancellor Cavanaugh was setting me up to be fired! Here’s my reasoning.

Another two weeks or so of delay from March 8th would take us to the March 23rd meeting of the HR Committee of the Board of Governors where I believe they discuss, among other things, whether to recommend to the full Board, “rolling” the contracts of the chancellor and presidents. With some of the Chancellor’s rapidly multiplying “hurdles” still unresolved to his satisfaction, my evaluation would not be completed by the time of their meeting and, hence, their recommendation would be delayed.

Another two weeks or so after that could take us past the April 5 Board of Governors meeting where chancellor and presidents contracts are actually “rolled” in public session. So the added 2 to 4 weeks in the Chancellor’s plan would mean a) my contract would not get rolled, b) the media would get the story of a president’s contract not being rolled—something they salivate over, and c) based on recent history, that president would soon be gone.

By the way, the critical role of the media in getting public university presidents fired is well documented. A few well-placed, anonymous tips from unscrupulous enemies can sic the media hounds onto a president—especially if that president can be smeared with an allegation of “financial impropriety.” We’ve all seen it a hundred times. “President fired for spending thousands renovating the Presidential Mansion.” Well, unfortunately for my unscrupulous enemies, I don’t live in a mansion—I live in a 100-year old apartment with suspect plumbing.

Well imagine then what an amazing coincidence greeted me the other day: The Sunday, March 18, 2012 *Observer-Reporter* newspaper carried the following first-page banner headline:

Cal U. finances under investigation Institution, state tight-lipped on special audit

The story appeared under the byline of Scott Beveridge, who is well known for his overly negative reporting on Cal U in general and me in particular. Less well known, perhaps, is that he is a friend and former IUP classmate of Kenn Marshall, Media Relations Manager, PASSHE, Office of the Chancellor.

I know. I know. The fact that Scott Beveridge and Kenn Marshall are friends and former IUP classmates doesn't mean that Kenn is feeding inside information about Cal U from the Office of the Chancellor to Scott Beveridge. That's guilt by association and we can't have any of that.

But a list of coincidences is fair game, is it not? Here's one:

Many years ago, during Chancellor McCormick's time, I filed a complaint with Kenn Marshall's then boss at PASSHE, Ed Nolan, when I learned that Kenn was feeding inside information about Cal U from the Office of the Chancellor to Scott Beveridge.

I know. I know. That's ancient history. What has he done lately? Please check email below:

From: Kindl, Christine
Sent: Friday, March 09, 2012 4:39 PM
To: Stalvey, Domenica
Subject: <no subject>

Dee,

Just a heads-up: Bruce ran into Scott Beveridge in the parking lot this evening.

Scott asked if the President was going to be in his office next week, during spring break, and he mentioned hanging out nearby so the President "will have to talk to me."

Scott just requested and received from Kenn Marshall a copy of the management letter that accompanied the ParenteBeard audit of Cal U (June 30, 2011 and 2010); and a copy of Cal U's most recent single audit, as well as that audit's management letter.

He also asked question about the president's car, and Kenn provided a copy of the policy governing that.

I just don't want the President to be "ambushed" on his way down the hall next week.

I know. I know. There's nothing really fishy about that. Kenn is the Right to Know manager in the Office of the Chancellor and his job is to give out information, upon request, that is deemed to be "public information." Scott Beveridge made a request for public information and Kenn just filled it. He was doing his job.

Well, if you read the article, Kenn Marshall is actually quoted not once but twice:

"The state system is not commenting on why it sent a team of auditors to Cal U in February, spokesman Kenn Marshall said." (Emphasis added.)

That's very interesting because the person who actually headed up the 3-day audit, Dean Weber, told me in front of my Cabinet members and his three assistant auditors, that they were sent in as a result of Five (5) anonymous complaints sent to Chancellor Cavanaugh, plus one signed complaint—with 24 exhibits—sent to a State representative. By the way, none of these written complaints were ever shown to us; Dean Weber merely characterized them. Interestingly enough during his exit interview where he reported verbally on the results of their work, he told us that most of the complaints were "opinions" from people regarding how the University should or should not be run, and that in each case the president had the authority to make the decisions in question. He reported that the only complaint of any substance seen by the auditors, involved a vice president who approved expensive professional conferences for two subordinates to attend.

Dean Weber also reported to us that soon after he arrived on campus, he received a call from the *Pittsburgh Post-Gazette* stating they were aware that 4 auditors were on campus and wanting to know what they were doing here. Dean said he did not plan to return the call, and expressed surprise that a reporter would even know that they were here. Interestingly, Scott Beveridge contacted Christine Kindl, the Cal U spokesperson, and also asked a similar question.

The above quote from Kenn Marshall is interesting for another reason: While he was obviously directed by someone above him in the chain of command—perhaps even the Chancellor—not to comment on WHY the audit team was sent in, he happily confirmed in that quote the FACT that an audit team **was** sent in. Otherwise, how would Scott Beveridge even know, as opposed to suspecting or having an anonymous tip about it? Even if Scott heard a rumor that someone on campus saw the auditors here, why wouldn't Kenn, when asked for confirmation **as the top spokesman for the Chancellor**, simply say "No comment?" Why would Kenn Marshall confirm to the media that an audit had been conducted on the Cal U campus?

Obviously, because Chancellor Cavanaugh wanted it known—via *the Pittsburgh Post-Gazette* and the *Observer-Reporter*—that an audit was conducted on the Cal U campus!

And why would Chancellor Cavanaugh want it publicly known?

- Because the Fact that an audit team had been sent in would be embarrassing to Cal U and to me, its president, even if the audit results later showed that nothing was amiss. By then, it would be old news of course, the damage would have been done, and we wouldn't be able to do anything about it, especially because Audit results, by BOG policy 1991-06-A, are not made public in any case (see below). To act in this clearly underhanded way would succeed in not only damaging the intended targets, it would

also deny them an opportunity for vindication by the same media delivering the damage. The only way to get justice would be this way—by filing a formal complaint against the perpetrators with the goal of exposing their unethical actions.

- The Why behind sending in an audit team—could also be embarrassing to Chancellor Cavanaugh if people knew that five (5) of the six (6) letters of complaint were anonymous. After all, this is still America, not Nazi Germany or the Old Soviet Union where anonymous complaints could send people to prison or death. The risk to the Chancellor would come only if all the allegations—as happened in the Kirk Holman matter—turned out to be false, which I believe they will. In that case, his having made the audit public via Kenn Marshall would be seen for what it was—an attempt to publicly embarrass me, based on a hope against hope that at least some of the allegations would turn out to be true. That is why Kenn Marshall was told not to answer the WHY question. Chancellor Cavanaugh’s goal was clearly to embarrass me, without embarrassing himself. Hopefully, the filing and subsequent adjudication of this formal complaint will reverse that situation, and correct a grave injustice.

Question: Why didn’t Kenn Marshall give Cal U a heads up once he received the RTK request from Scott Beveridge and learned that he was planning to do a potentially embarrassing story about an investigation of Cal U’s finances? After all, Kenn works not for the *Observer-Reporter*, but in the Office of the Chancellor for PASSHE, the system of 14 universities that includes Cal U. Well apparently, some PASSHE presidents get a heads up when potentially embarrassing “public information” is given out to “interested citizens.” and others don’t.

An example of the former case may be seen in Exhibit 6, an email by Chancellor Cavanaugh to those presidents whose fund balances were above the 10% limit created by a recent BOG policy.

At Cal U, we learned that Kenn Marshall gave documents to his friend Scott Beveridge, not because Kenn told us, but only because Scott happened to be skulking around one of our parking lots a week before his story with the big headline came out. The favored presidents got this:

“Just an FYI to those of you who submitted plans for unrestricted net assets in excess of the BOG policy: APSCUF asked for copies under Right to Know. They are public records. We are providing them.”

Now the second Kenn Marshall quote in the Scott Beveridge article re: special audit at Cal U:

“I was told no details are being provided on this one,” Marshall said. He said the audit report will be made public once the investigation is completed.” (Emphasis added.)

This quote directly contradicts Dean Weber’s engagement letter to me (Exhibit 7), as well as the Board of Governors Policy on which it is based. The engagement letter reads, in part:

“In accordance with Board of Governors Policy 1991-06-A, final results will be distributed to you, the Board Audit Committee, University Council of Trustees, and the Chancellor, as well as other Office of the Chancellor leadership as deemed appropriate.”

Note that there is no authority whatsoever in the Board of Governors' policy for the distribution of audit reports to the public! For that reason, it is important that Chancellor Cavanaugh and Kenn Marshall be officially notified that public distribution of any audit report including, I would hope, ones involving Cal U, would be considered a violation of current BOG policy and treated as such. Of course, under Chancellor Cavanaugh's leadership—if recent events are any guide—the brazen release of what should be confidential information to the media cannot be ruled out. Imagine what fear the presidents will live under knowing that this Chancellor was not above using anonymous complaints to justify requesting an audit, and then to tip cooperative reporters in an effort to hurt their enemy colleagues. This resembles the “dirty tricks” revealed during the Nixon-Watergate scandal of the 1970s. Imagine the power such a Chancellor would hold over the heads of presidents who somehow, even perhaps unknowingly, displeased him.

The BOG policy in question, 1991-06-A, is actually silent on whether the Chancellor is authorized to tip off the media when audits are being conducted at a given PASSHE university.

Is the absence of such a prohibition a sign that there is a problem with the policy, or is the need for such a prohibition in the policy a sign that there is a problem with the Chancellor?

The Pittsburgh Post-Gazette gets in the Act

While the *Observer-Reporter's* Scott Beveridge was the first to make hay with the great tip from his friend Kenn Marshall (**PASSHE employee and top spokesman for the Chancellor**) about the audit on the Cal U campus, we knew that Bill Schackner couldn't be far behind. Bill was the reporter who called Dean Weber to ask about the audit at Cal U the day the auditors got here.

And now imagine the coincidence. Just one day later we get a request from Bill Schackner listing 18 questions he wanted promptly answered as part of a story scheduled to appear in the *Pittsburgh Post-Gazette* just two days after the *Observer-Reporter* story. If you check Exhibit 8 which contains a 4-page document listing the 18 questions and our answers, you will notice that Schackner's questions came straight from reading the Sunday article by Scott Beveridge.

Wow, this journalism thing isn't that tough—especially if PASSHE personnel and newspapers work together to smear a University, whose president has apparently angered the Chancellor.

When I think of the staff time we PASSHE employees at Cal U have invested (wasted?) trying to put out the media fires that some of our Dixon Center friends are happily lighting, I ask myself if there is any chance we could get reimbursed out of the OOC budget? Justice would be served.

Question

Assuming a Chancellor wanted to, what would it take to unseat a 20-year PASSHE president with a fairly decent record?

Answer

It would not be easy, but a good place for that Chancellor to start would be to have that president begin to be seen by his peers and the public as incompetent or failing in one or more important comparative measures—say fund balance, operating margin, or financial irregularities—for argument's sake. Now, it's easy to make that happen if the president in question is truly

incompetent, because he will soon reveal himself as such without help from anyone. It gets a little tougher if the president actually knows a little about what he is doing. In a case like that, with the absence of significant help from the president himself, it may become necessary to impugn and denigrate that president in venues where the president's rebuttal is really not an issue—that is, behind his back.

The most effective way to make that happen in small to medium size groups is for the bad-mouthing to be done by one or more of the group's "opinion leaders." This works for a while in small to medium size groups because it usually takes time for the president being slandered to hear about it from the one or two friends he may actually still have.

Now, to accomplish the same goal in very large groups requires the use (meant literally) of the media, but it must be done in subtle ways that make the vilification of the president seem the work of third parties or anonymous complaints, a.k.a., 'tips.' It is critical that the individual pulling the strings remain invisible. Now the only weakness with this strategy is this:

"Any war plan that depends on the cooperation of the enemy is likely to fail."
Anon.

In other words, if the president in question recognizes the strategy in time and decides to fight it by exposing the slanderers and their despicable tactics, that president has a chance to prevail.

Jim Dillon as "Opinion Leader"

Moving from the abstract to the real case that underlies this formal complaint, there were a few threads to this story that didn't make sense to me until I saw Chancellor Cavanaugh's game plan clearly in my mind for the first time on March 8th. And one of those threads involved the role of Jim Dillon as one of the "opinion leaders" from the previous story. Let me explain.

As I and several members of my immediate staff now know very well, Vice Chancellor Jim Dillon has been "bad-mouthing" Cal U and me to anyone who would listen for the last two years. After hearing about it from multiple sources, I actually considered filing a formal complaint against him, but my staff talked me out of it, based on their fear of retaliation. I relented only when I came to see the level of trepidation in their expressions.

I asked myself what the source of Jim Dillon's hostility toward us could be. I first became aware of his growing antagonism when he launched his "Moody's" financial-ratio presentation around the system and began telling people that Cal U had too much debt. I wasn't concerned that he was misrepresenting the amount of our debt—he wasn't. I was concerned that he was failing to mention the cash stream we had in place to cover the debt service on that debt. For example, when he would speak of the total outstanding debt on our new student housing, he would often leave out the fact that our rents were bringing in much more money than was needed to cover all the expenses—including debt service. In fact, with nine (9) years of audits showing that the "profits" or "surplus funds" had come in at a rate 78% higher than what the proforma predicted, it was clear that those surplus funds provided a gigantic cushion, well beyond the revenue stream needed to cover the debt service. But because he wasn't telling the full story, his presentations unfairly denigrated Cal U and its president in the eyes of the PASSHE audiences hearing it.

Our deteriorating relationship with Jim Dillon came to a crisis point in March of 2011 soon after a proposal was passed by our Council of Trustees calling for a \$30 million renovation and expansion of the Natali Student Center. When he received that proposal and my request to have the requisite bond financing put on the Board of Governor's agenda, Jim Dillon called to tell me that he would not support our bond financing, even though the Trustees had approved it, and the students had agreed in a referendum to pay an increased fee to cover the debt service on the bonds. He would recommend to the Finance Committee of the Board that they not approve it.

I was invited to make my case to Mr. Chuck Pennoni, the Chair of the Finance Committee, at his office in Philadelphia. Three of us attended the meeting on March 30, 2011 with Mr. Pennoni, including Jim Dillon, Chancellor Cavanaugh and me. After the pleasantries, Jim Dillon began by speaking against the bond financing for the Natali project because, according to him, Cal U had too much debt. Again, he focused on the debt service but—true to form—not the cash stream that was more than sufficient to cover the required debt service. Chancellor Cavanaugh went second and, much to my surprise, also spoke against BOG bond-financing for the project.

I went third and made my case for why the project should go forward. Mr. Pennoni then gave his analysis of the situation and, after carefully stating the rationale for his position, supported going forward with the project.

When the three of us left the building, the tension in the air between Chancellor Cavanaugh, Jim Dillon and me was excruciating. No one spoke of what had just happened. Our parting remarks were awkward and uncomfortable, and it was a huge relief for me when we finally went our separate ways. Although I was pleased over Mr. Pennoni's decision, I wondered on the drive home how my two PASSHE colleagues would handle the outcome of this meeting. As it turned out, it wouldn't take long for me to find out.

I wondered why they wanted me to meet with Mr. Pennoni on this issue. I suspected that they lacked the courage of their convictions and wanted the Chair of the Finance Committee to make a decision—the one they wanted made. But he disappointed them and supported my position.

After that day, my relationship with Jim Dillon went south in a hurry. A couple months later, he arbitrarily overruled our Council of Trustees' recommendation to make our pedestrian/vehicular road project the next capital project to be funded. It happened at the conclusion of a meeting of the presidents when, without preamble, he pulled me aside and said he was now denying my recent appeal for him to reinstate our project, and that I shouldn't bother speaking to the Chancellor—he was already on board with the decision. I suspected our conversation that day was somehow connected with the meeting in Philadelphia.

During my recent "evaluation" meeting with Chancellor Cavanaugh and Bob Irey on March 8th, I talked about Jim's rude treatment of me and my request and, amazingly, Chancellor Cavanaugh turned to Bob Irey and said, "Bob, which project do you want to go first?" And Bob replied, "The one that President Armenti recommended and the Council of Trustees approved." Then, much to my surprise, Chancellor Cavanaugh immediately replied "You got it," confirming for me, as if I needed any confirmation, the arbitrary and capricious nature of their earlier decision.

Chancellor Cavanaugh as “Opinion Leader”

Chancellor Cavanaugh is a major opinion leader in PASSHE by virtue of the significant leadership position that he holds. Not surprisingly, as the chief executive of PASSHE, his words can and should be expected to influence the opinions of others. But an important aspect of leadership is empowering the people throughout the organization who rightfully look to the leader for guidance, wisdom and support.

While thousands of books have been written on “leadership,” and many different definitions of the term have been proposed, Stephen R. Covey, the person who wrote *The 7 Habits of Highly Effective People*, has provided a uniquely compelling definition of the term:

“Leadership is conveying to people their worth and potential so clearly that they are inspired to see it in themselves.” Stephen R. Covey

Based on my four years of experience working for and with Chancellor Cavanaugh, I am disappointed to say that his interactions with me have rarely if ever inspired me to see **any** worth or potential in myself. That, of course, could be my entire fault. Perhaps he is great at inspiring others, and maybe he really tried with me, and I’m just a lost cause.

Perhaps Covey’s definition is too lofty. Some definitions of leadership focus on “affirmation,” perhaps a notch down from “inspiration,” but a good thing in its own right. But truthfully, I’ve not even seen much of that—not just with me, but with most if not all of the other presidents over the last four years. In my experience—and I grant that my experience might not be typical—Chancellor Cavanaugh appears to be so busy affirming himself that he has little or no time to affirm those with whom he works.

Lest you think I’m being unjustly cruel, consider some examples of incidents that shaped the unfortunate opinion of the Chancellor that I just expressed.

First Example

The first day newly appointed Chancellor Cavanaugh met with the presidents at a retreat in Summer 2008 was, coincidentally, the same day that I was scheduled to present a paper entitled “Declining Public Support for Public Higher Education in Pennsylvania.”

While I distinctly recall some ‘buzz’ from the presidents upon first hearing about our “being privatized without a plan,” I don’t recall Chancellor Cavanaugh saying anything to me about the presentation or any of the ideas I and the other presidents had expressed and discussed. In fact to this day, some four years later, the Chancellor has never said one word to me—good or bad—about any ideas I’ve ever expressed, on any subject, despite numerous opportunities to do so.

Second Example

In four of the last five years, beginning in 2008, I have been invited to give presentations at a National Conference in New York sponsored by the National Center for the Study of Collective

Bargaining in Higher Education and the Professions (NCSCBHEP), and hosted by City University of New York (CUNY). The presentation I gave to my colleague presidents in 2008 had first been presented in New York three months earlier. Here is a listing of the titles and dates of my recent invited presentations

- Declining Public Support for Public Higher Education in Pennsylvania (April 7, 2008)
- The Effect of State Budgets on Labor Relations between Contracts (April 12, 2010)
- Public Education/Private Funding (April 11, 2011)

Last year, Chancellor Cavanaugh was also a presenter at the New York conference, and we saw each other there. We exchanged greetings, but he was very cool to me. In fact, he was so cool to me that it made me uncomfortable. After an awkward minute or so, I walked away and began speaking to some other people that I happened to know there. It was only a few minutes ago as I was writing this paragraph that I first wondered if his demeanor toward me in New York was somehow related to the meeting in Philadelphia with Mr. Pennoni on March 30, 2011. The New York event happened just 12 days after that meeting in Philadelphia.

I have been invited back to speak at this year's National Conference on April 2, 2012. Jane Wellman, Executive Director, National Association of System Heads (NASH), and Founding Director, Delta Project on Postsecondary Costs will give the Plenary Overview, and I will serve as a "Respondent," briefly commenting on her presentation and presenting some of my own work, before opening up the session for Q&A. We have been asked to work together to coordinate our two sets of remarks for this 45-minute session. The title of this joint session is: "**Financial Landscape of Public Higher Education,**" and while I'm obviously honored to be a part of this conference, I can't help feeling that somehow Chancellor Cavanaugh resents, not just my being at these conferences but, even more so, the ideas that I present.

Third Example

My relationship with Chancellor Cavanaugh began to deteriorate seriously after I was invited to give the Keynote Address at the P.A.C.T. meeting at Kutztown on October 13, 2010. Right after the invitation was extended, I mentioned to the Chancellor and the presidents that I was asked to speak on "The Future of Public Higher Education in Pennsylvania." I asked for ideas for how they thought I should approach the theme, since it presented an opportunity for the Chancellor and the Commission of Presidents (that I then chaired), to work together and engage the Trustees and some members of the Board of Governors who might be there, by presenting our ideas about the future of public higher education. Chancellor Cavanaugh dismissed my suggestion almost before the idea was out of my mouth, saying that speeches at P.A.C.T. meetings wouldn't matter. That was only the first of several occasions when my idea of the presidents and Chancellor working together to provide carefully developed thought-pieces for consideration by the Board of Governors was summarily rejected by the Chancellor. I will return to this subject below in relation to the role of the **Commission of Presidents** specified in the law that created PASSHE.

Although Chancellor Cavanaugh was in attendance the evening of my P.A.C.T. Keynote address, he never said one word to me about the ideas presented either before, during or after that evening in October 2010 in Kutztown. While I now know with certainty that Chancellor Cavanaugh is very angry with me on some personal level—because he has made it so obvious—I also sense quite strongly that his antagonism toward my ideas may even be greater. I’m no prophet, but what was predicted at Kutztown is now clearly happening—but our Chancellor averts his eyes and, instead, substitutes secondary problems for real ones—which remain unaddressed.

“For if the trumpet give an uncertain sound, who shall prepare himself to the battle?”

1 Corinthians 14: 8

Fourth Example

At a recent “Chancellor and Presidents Retreat” where ideas for the good of the PASSHE universities would be discussed, the Chancellor mentioned the new strategic planning process and brought up the need for the new strategic plan to be sensitive to the needs of the Governor and legislators. There was general agreement on this in the room. While not disagreeing with the importance of the Governor and legislators in our strategic plan, I made the point that since students and donors now pay for 75% of the cost of education, didn’t we need to be sensitive to the needs of those stakeholders as well? In response, the Chancellor didn’t speak. He just stared at me with a dark expression and, in the ensuing silence, ‘my motion died for lack of a second.’ That humiliating experience made it very clear to me that nothing I say will ever be permitted to be considered by the group of presidents, when Chancellor Cavanaugh is in the room.

Act 188 of 1982 and the Commission of Presidents

The idea so quickly rejected by Chancellor Cavanaugh—that the presidents and the Chancellor should work together to develop thought-pieces to present to the Board of Governors—was not new. In fact, it wasn’t even mine. It’s a matter of law! When I was first elected as Chair of the Commission of Presidents some five years ago, I thought it would be a good idea to see what the purpose of the Commission actually was, so I consulted Act 188, and this is what I found:

Section 20-2007-A. Commission of Presidents

“The Commission of Presidents of the System shall consist of the presidents of the several institutions who shall annually select one (1) of their members as chair-person. **The commission shall recommend policies for the institutions and shall act in an advisory capacity to the chancellor and the governors.** The commission shall meet quarterly and additionally at the call of its chairperson or the chancellor. A majority of the presidents shall constitute a quorum.”

Unfortunately, the above section of the law (Act 188 of 1982) that created the state system has mostly been observed in the breach during my 20 years in PASSHE—despite the fact that the law says ‘the commission shall (not may) recommend policies for the institutions and shall (not may) act in an advisory capacity to the chancellor and the governors.’

All three chancellors since 1992 have treated the Commission of Presidents pretty much the same way—with fear and loathing. Note that, by law, the Chancellor is not a member of the Commission—not even an *ex-officio* member. So the Commission of Presidents, by law, can and should meet without the Chancellor present.

During Chancellor Cavanaugh's time, the presidents—as a group of individuals—meet frequently with him in a free-for-all type discussion in which presidents offer individual advice and suggestions—which the Chancellor is free to accept or not. As currently constituted:

- Basically, the only ideas from individual presidents that get to be considered by the Board of Governors are those which Chancellor Cavanaugh happens to agree with.
- Additionally, none of the ideas of the presidents as a Commission of Presidents will ever get to the BOG for consideration, until the role of the Commission is actually fulfilled.

Technically, Chancellor Cavanaugh is not *preventing* the presidents from fulfilling the legal requirements called for in Act 188. But, not unlike his two predecessors, by force of personality as demonstrated in the treatment of presidents who speak up, he effectively thwarts whatever enthusiasm most presidents may have had for asserting their rights and fulfilling their duties.

Unfortunately, the current situation denies the Board of Governors the benefit of the intellectual horsepower available to the BOG from the Commission of Presidents, at what is clearly one of the most critical and challenging times in the history of public higher education in Pennsylvania.

Hurdle 5: There needs to be additional meetings with Jim Dillon to arrive at an agreed-upon financial management plan. (Emphasis added.)

I immediately challenged Chancellor Cavanaugh as soon as he uttered these words. I told him that he was treating me as if Cal U was in 'receivership' and that, to my knowledge, the Board of Governors had made no such declaration, either publicly or privately. He strenuously objected to my use of the word "receivership." I sensed immediately that he was very sensitive to a charge that he had exceeded his legal authority by preventing me from doing my job, based on my reading of Act 188 of 1982. I will return to this subject below.

In view of Jim Dillon's glaring hostility toward me, I had little hope that Hurdle 5 could ever be overcome because I was convinced that, in the Chancellor's mind, Jim Dillon's view of financial reality was true, and I would have to submit to it, meaning that we could never arrive at an agreed-upon financial management plan.

Incidentally, because our operating margin for FY 2011 fell below the 2% minimum, I was directed by Chancellor Cavanaugh to send him a Financial Management Plan by December 31, 2011. Included in Exhibit 9 is a copy of the plan I sent to him on December 28, 2011. To this day, I still have not received any feedback—good or bad—from anyone in the Office of the Chancellor about my Financial Management plan.

But during my recent "evaluation" meeting with Chancellor Cavanaugh and Bob Irely, I pressed the Chancellor on why I had been kept waiting a month without any news as to when his restriction on my ability to do my job would come to an end. His answer surprised me. He claimed that part of the reason for the delay was because he had only just received my Financial Management Plan the day before. He was clearly referring to a document that my office had just sent him as part of my recently initiated "evaluation process."

I told the Chancellor that the Financial Management Plan he received yesterday was identical to the one I sent him back on December 28, 2011.

I doubted that he had ever read the Financial Management Plan that I originally sent him, for if he had, he would have known that manager furloughs were prominently mentioned as one of the steps we would need to take during the current 2011-12 fiscal year to rein in our costs—as our revenues continued to plunge with no end in sight.

While it is clear that Chancellor Cavanaugh was quite sensitive about the month-long delay I had been complaining to him about, his claim that I contributed to the delay was clearly false because I had sent him my plan on December 28, 2011 and have an email record to prove it.

Hurdle 6: We would need to wait until the report of the internal auditors had been received before moving forward.

Most of the relevant evidence and background related to this hurdle was already covered previously when I discussed the Board Policy 1991-06-A in relation to the newspapers being tipped off that an audit was being conducted on the California University campus.

Later, after reflecting on the growing number of hurdles, I was reminded of a book I read years ago entitled *Games People Play*, by Eric Berne, M.D. The particular game in question is “Why don’t you—Yes, but.” As I addressed each of his stated concerns and presented a rebuttal that he could not logically reject, he would simply add still one more hurdle to the list—Yes, but!

Question

Does Act 188 of 1982 empower a Chancellor to suspend the authority of a university president?

Answer

You be the judge. Now it is very clear that a president’s authority to implement a furlough process comes from Act 188, Section 20-2010-A. Power and Duties of Institution Presidents.

Section 20-2010-A. Power and Duties of Institution Presidents

“The president of each institution shall be appointed by the Board. The president shall be the chief executive officer of that institution. He shall have the right to attend all meetings of the council of that institution and shall have the right to speak on all matters before the council but not to vote. Subject to the stated authority of the Board and the council, each president shall have the following powers and duties:

(1) Except insofar as such matters are governed by collective bargaining agreements entered pursuant to the act of July 23, 1970 (P.L. 563, No.195), known as the “Public Employee Relations Act,” and subject to the policies of the Board, to appoint such employees, professional and noninstructional, graduate assistants, etc. as necessary, to fix the salaries and benefits of employees, professional and noninstructional, and to establish policies and procedures governing employment rights, promotion, dismissal, tenure, leaves of absence, grievances, and salary schedules.” (Emphasis added)

Note that there are sixteen (16) enumerated items under the heading Power and Duties of Institution Presidents, and the power and duty to "...establish policies and procedures governing ...dismissal..." appear in the very first item under the heading.

As to the authority of the Chancellor:

There are twelve (12) enumerated items listed in Act 188 regarding the authority of a Chancellor, but, for some reason, they are not called "Powers." Item nine (9) appears to be the only item in which the words "Chancellor" and "President" both appear.

Section 20-2005-A. The Chancellor

"(9) The chancellor shall have the right to require of the presidents any and all information necessary for the performance of his duties. The chancellor shall perform such other duties as the Board may designate."

Apparently, the only direct authority that Act 188 explicitly provides to the Chancellor with respect to a president is the authority to require from a president "any and all information necessary for the performance of his duties."

That stops well short of saying that a Chancellor can use his authority to require information—but then employ obvious delaying tactics to effectively, unethically, insidiously and perhaps illegally, suspend the legitimate Powers and Duties of a president.

Concluding Remarks

The future of all fourteen (14) PASSHE universities has recently been clouded by gigantic cuts in State funding. At the same time, however, these State cuts have been compounded by additional cuts, either exclusively or primarily impacting Cal U, that stem directly from actions initiated by the Office of the Chancellor. As a result of these compounded revenue cuts, our ability to continue delivering the noble PASSHE mission of "...high quality education at the lowest possible cost to the students" is becoming more and more difficult to maintain.

For the past 20 years, we have been positioning the University, not only to survive, but to thrive as the disinvestment in public higher education in Pennsylvania continued its relentless 30-year decline. And, through hard work and an entrepreneurial spirit we were able, until recently, to stay ahead of the State funding decline by raising alternative revenue (primarily through enrollment increases and the raising of private funds). By virtually every measure, Cal U has grown and prospered during my tenure.

I have always said since day one that the Commonwealth could bankrupt us at any time—provided only that State funding went away faster than our efforts to adjust could make up.

And that is precisely what has happened in the last two years.

But the recent catastrophic decline in State funding threatening all 14 PASSHE universities is not the only one threatening Cal U. There has been an additional defunding of Cal U that was

initiated by the Office of the Chancellor starting in FY 2004 (under Chancellor Hample), but accelerating in FY 2008 (under Chancellor Cavanaugh).

For 20 years, I have put my heart and soul into building Cal U into a strong competitor in this new world of rapidly privatized public higher education institutions.

By the end of calendar year 2011, as I watched our revenues plunging and our expenses growing, I reluctantly concluded that the only way Cal U could continue to stay afloat financially would be to furlough employees. And in the “Financial Management Plan” I presented to Chancellor Cavanaugh on December 28, 2011, I laid out our financial challenge as I saw it, and crafted my proposed solution. It called for the furlough of some non-represented management positions in the current fiscal year; the possible furlough of non-faculty bargaining unit positions in the next fiscal year; and, as a last resort—depending on additional revenue cuts—the possible furlough (retrenchment) of faculty bargaining unit personnel.

For years now, I have been telling faculty and staff that, if it ever came to retrenchment, I would resign before carrying it out, because I knew how much damage such a step could do this University that I love. Only recently, as I contemplated our sad predicament, did I begin to feel differently. I realized that I would be taking the easy way out by leaving it to others to do the difficult things that needed to be done—others who wouldn’t know the University, its strengths and its challenges, as well as I would.

I resolved then to do whatever it would take to keep the University solvent—while preserving its mission—so that Cal U would continue to be a beacon of hope and a place of opportunity for many years to come. Starting more than a year ago, we began to plan for management furloughs. We worked diligently with the Chancellor’s staff during that time to get everything ready. And on Wednesday, February 8, 2012, the day before we were scheduled to notify the managers whose jobs were being abolished, and just days after I notified the campus community that manager furloughs were about to begin, Chancellor Cavanaugh sent me an email directing me not to proceed with the 10 furloughs (9% of our total of 116 positions) that we had been working on with his OOC staff for more than a year, thereby diminishing my credibility, and upsetting the 91% of our managers who shouldn’t have had to worry.

Later, after I responded to his email, he sent me another email in which he falsely accused me of violating a directive he had given to all the presidents. He also informed me that our financial situation “may or may not be a personnel problem at core.” That is a truly amazing statement when one considers that 79% of our budget is committed to two areas: personnel costs (68%) plus mandatory expenses (11%). That leaves only 21% of our budget to provide: a) supplies and services to 9,500 students, b) equipment and technical support to 950 employees, and c) financial resources (i.e., cash) to make up for the enormous revenue reductions of the last few years, as well as to cover the likely revenue reductions of the coming years.

With an E&G budget of \$120 million, the pool of money available to pay for supplies, services and revenue reductions—if personnel cuts are taken off the table—is just \$25 million.

But between 2002 and 2012, the total of accumulated revenue reductions at Cal U came to \$22.4 million with \$9.2 million of the total coming in just one year (FY 2012) alone! And with the Governor proposing a 20% cut (equivalent to a \$5.6 million, one year cut to Cal U), to suggest that we may not need to cut personnel is too preposterous to take seriously.

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