

Defending My Research and Academic Freedom at the University of California

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April 27, 2007

On January 18, 2007 the UC Regents discussed Action Item RE89 to ban tobacco industry funding at UC (<http://www.universityofcalifornia.edu/regents/regmeet/jan07/re89.pdf>). This discussion is summarized in the attached January 26, 2007 *Science* article (1) and in the Regents minutes (<http://www.universityofcalifornia.edu/regents/minutes/2007/fin17.pdf>). Because I was mentioned in this discussion, I have prepared this document in order to defend my research and academic freedom at UCLA. In particular, I have addressed statements made about my research in Action Item RE89 itself and in the presentation by UCSF Professor Stanton A. Glantz (Glantz) (<http://www.universityofcalifornia.edu/senate/assembly/feb2007/Regents.tobacco.presentation.pdf>).

Several erroneous statements have been made by Glantz and the American Cancer Society (ACS) regarding the May 17, 2003 *British Medical Journal* (*BMJ*) paper that I wrote with Geoffrey C. Kabat, Ph.D. (<http://bmj.com/cgi/reprint/326/7398/1057.pdf>). I have responded to these statements in order to provide an accurate portrayal of my epidemiologic career at UCLA and my dealings with the ACS, both of which date back to 1973. My response addresses the essential aspects of six major issues, using five pages of text and eleven numbered attachments. Additional details on these issues are provided in the weblinks shown and in my Scientific Integrity Institute defense (<http://scientificintegrityinstitute.org/defense.html>). To be sure that these complex issues are fully understood, I am willing to personally explain them further.

1) My May 17, 2003 *BMJ* paper (“the UCLA study”) is valid

- a. My *BMJ* paper on environmental tobacco smoke (ETS) and tobacco-related mortality is high quality epidemiologic research made possible because of the academic freedom that I have had at UCLA since 1973. Contrary to the harsh criticisms by Glantz and the ACS, my paper is being accepted as accurate and important by an ever increasing number of informed readers, who have objectively evaluated it relative to other research on this subject.
- b. My *BMJ* results, which show that tobacco-related mortality has a very weak relationship to ETS but a very strong relationship to active smoking, have stood as correct since their publication. No errors in these results have been identified by anyone, including the ACS, which possesses the California Cancer Prevention Study (CA CPS I) data upon which they are based.
- c. My *BMJ* results are entirely consistent with those in the most detailed analysis of ACS data with regard to ETS and lung cancer, the 199-page 1995 Emory University dissertation by Victor M. Cardenas, M.D., Ph.D. The dissertation abstract states (on page viii): “This study found no

evidence of an association between self-reported ETS and lung cancer risk among nonsmokers. However, using spousal smoking habits to assess exposure, we found ETS is only weakly, and not statistically significantly, related to lung cancer risk among nonsmoking women in seven years of follow-up of the CPS II cohort.” (<http://legacy.library.ucsf.edu/tid/sqg22d00>).

d. My *BMJ* results are also consistent with those in the new Western New York State study published in the October 9, 2006 *Archives of Internal Medicine*, which found “After adjustment for covariates, exposure to secondhand smoke was not significantly associated with an increased risk of myocardial infarction.” (<http://www.scientificintegrityinstitute.org/ArchIntMed2006.pdf>).

e. If all peer-reviewed epidemiologic evidence is fairly and fully evaluated, the relationship between ETS and lung cancer and coronary heart disease mortality in the US is very weak and is consistent with my findings. Kabat and I analyzed this evidence in our March 1, 2006 *Inhalation Toxicology* paper (<http://www.scientificintegrityinstitute.org/IT030106.pdf>).

f. If the ACS accurately analyzes all the CPS I and CPS II data that it currently possesses, I believe that its results on ETS and mortality will be entirely consistent with my *BMJ* results.

2) My dealings with the ACS have always been proper and professional

My dealings with the ACS, which date back to 1973, have always been proper and professional. These dealings made it possible for me to obtain special access to the CA CPS I data in 1991. I have never committed any “scientific misconduct,” as suggested in recent ACS letters. John R. Seffrin, Ph.D., ACS Chief Executive Officer, wrote the attached October 12, 2006 letter to the UC Regents which implies “scientific misconduct” in my dealings with the ACS (2). Then Michael J. Thun, M.D., ACS Vice President for Epidemiology wrote the attached January 24, 2007 letter (3) in response to UC Provost Wyatt R. Hume’s January 19, 2007 request to Dr. Seffrin for “specific information in support of an allegation of scientific misconduct against Professor Enstrom.” In his attached February 12, 2007 letter to UC Regents Chairman Richard C. Blum, UC Academic Senate Chairman John Oakley has concluded that these two ACS letters do not contain evidence constituting a violation of the UC Faculty Code of Conduct (4). In his attached March 22, 2007 letter to Dr. Seffrin, UC Provost Hume unequivocally states that the materials submitted to UC by the ACS “provide no evidence of scientific misconduct” (5). Drs. Seffrin and Thun then wrote the attached March 29, 2007 letter to Provost Hume that continues their campaign of disinformation about me and my research (6).

Instead of providing any evidence of scientific misconduct, the Seffrin and Thun letters make a number of false and/or misleading statements that I need to correct. The ACS has **never** funded any of my research involving the CA CPS I data that I was given in 1991. I had **never** received any funding from the tobacco industry before I was given the CA CPS I data. I would **not** have been begun receiving tobacco industry funding in 1992 if the ACS had **not** rejected six grant applications from me during 1989-1991. The ACS has **never** put any restrictions on my funding sources in conjunction with my CA CPS I research. Indeed, each of the ACS rejection letters contains the sentence “We hope that you will be successful in obtaining funds for other sources for the support of this research.” The ACS has **never** required me to inform them of my funding sources in general. However, I **did** inform the ACS of my 1998 award from the Center for

Indoor Air Research, which was the tobacco industry funding I used for the research in my *BMJ* paper. A March 30, 1998 Thun letter to me confirmed the disclosure of my funding: "I read over your correspondence to the Center for Indoor Air Research proposing additional follow-up in CPS-I and analyses of environmental tobacco smoke (ETS) in relation to lung cancer and heart disease. I am pleased that you have obtained funding for this additional work, but I am worried about the quality of CPS-I data for further studies of secondhand smoke. . . ."

My April 10, 1998 letter to Thun addressed his concerns about the quality of the CA CPS I data. I again addressed his concerns in my 1999 CA CPS I questionnaire survey, in the peer review process for my *BMJ* paper, in the *BMJ* paper itself, in subsequent *BMJ* and *Lancet* letters, and in the 2006 *Inhalation Toxicology* paper cited above. I have **never** "ignored multiple communications about fundamental methodological problems" and I have **never** had "several telephone conversations" with Thun in which he told me that the subject of ETS "could not be studied meaningfully" with the CA CPS I data. To substantiate these alleged communications, the ACS should produce actual evidence. My records indicate that Thun has had no direct contact with me since 1998 and Seffrin has never had any direct contact with me. The ACS is very displeased with my *BMJ* paper and they are attempting to discredit it and me by implying that I have committed "scientific misconduct" without producing any actual supporting evidence.

3) Evidence that the UCSF Campus Code of Conduct has not been properly enforced

I have evidence indicating that the UCSF Campus Code of Conduct has not been properly enforced. On July 1, 2005 I filed a nine-page, single-spaced complaint of alleged scientific misconduct by Glantz and UCSF Professor Lisa A. Bero because of their extensive campaign of erroneous claims about me, including their April 2005 *Tobacco Control* paper (<http://www.tobaccoscam.ucsf.edu/pdf/Enstrom-TC.pdf>). My complaint documented my allegations of scientific misconduct as defined by the Code of Conduct: "Misconduct in Science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research." (<http://ucsfhr.ucsf.edu/files/finalcc.pdf>). My complaint is directly relevant to the University Policy on Integrity in Research, which is cited in Action Item RE89 (<http://www.ucop.edu/ucophome/coordrev/policy/6-19-90.html>).

UCSF Associate Vice Chancellor, Academic Affairs Sally J. Marshall dismissed my complain in the two attached March 1, 2006 letters, which state "After consideration of the Ad Hoc Committee report, we have decided that no further action by the University is warranted." and "It should be emphasized that, according to University Policy, all those involved in these matters have the burden of confidentiality." (7). Since these letters contain no specific response to my detailed allegations of scientific misconduct, I asked UCSF Chancellor J. Michael Bishop in a February 26, 2007 email message if the full Ad Hoc Committee reports can be revealed to me and/or Regent Blum without the "serious legal implications" stated in the Marshall letters. However, the attached March 13, 2007 letter from UCSF Vice Provost, Academic Affairs Marshall reiterated the confidentiality issue and concluded "Since we have previously investigated your claims, I conclude that there is no merit to your request."(8).

4) Inappropriate insertion of *BMJ* paper into the US DOJ tobacco trial

An important part of Action Item RE89 and the presentation by Glantz to justify implementation of a ban on tobacco industry funding at UC is based on the August 17, 2006 Kessler RICO decision following the US Department of Justice tobacco trial (Civil Action No. 99-2496 (GK)) (<http://www.dcd.uscourts.gov/opinions/2006/99-2496-082006a.pdf>). Because my *BMJ* study is mentioned throughout this decision (primarily on pages 1380-1383), the Regents should know precisely how my study got inserted into the July 1, 2004 United States' Final Proposed Findings of Fact Civil 99-CV-02496 (GK), that was used in the Fall 2004 trial (<http://www.usdoj.gov/civil/cases/tobacco2/U.S.%20Final%20Proposed%20Findings%20of%20Fact%20REDACTED%20w%20BkMks%2020040701.pdf>).

I believe that Glantz was involved in the insertion of my study into the above lawsuit and in the mischaracterization of it therein (<http://www.ucsf.edu/senate/townhallmeeting/dckessler-rico-uc.pdf>). I base this belief on his extensive participation in previous tobacco lawsuits, his April 2005 *Tobacco Control* paper, my above scientific misconduct complaint, and the substantial information about the Kessler decision that Glantz provided former Regent Cruz M. Bustamante in September 2006 (<http://www.ucsf.edu/senate/townhallmeeting/Bustamante-Complete.pdf>). I am certain that the answer to the insertion is known to Glantz, Bero, Sharon Y. Eubanks (D.C. Bar No. 420147), Former Director, USDOJ Tobacco Litigation Team, and/or Stephen D. Brody (D.C. Bar No. 459263), Current Director, USDOJ Tobacco Litigation Team.

On February 1, 2007 I sent Jeffrey A. Blair, Esquire, of the Office of the General Counsel of The Regents a formal email request for assistance in determining the source of the above insertion. I pointed out to Mr. Blair similarities between the order and content of the text on pages 119-123 of the April 2005 *Tobacco Control* paper and pages 821-826 of July 1, 2004 United States' Final Proposed Findings of Fact. The attached March 29, 2007 letter to Regent Blum from UCSF Vice Chancellor David A. Kessler and Sharon Y. Eubanks provides evidence that there is a relationship between UCSF and USDOJ regarding the above lawsuit (9). On April 5, 2007 I located and spoke with Eubanks about my insertion into the lawsuit, but she refused to give me any information or assistance. Since I did not learn of the insertion of my *BMJ* paper until after the Fall 2004 trial, I deserve an opportunity to refute the mischaracterization of my *BMJ* study in the Findings of Fact and the Kessler RICO decision.

5) The advocacy activities of Glantz are being used to interfere with my academic freedom

I have located a July 6, 2000 legal decision regarding Glantz that the Regents should read: "Californians for Scientific Integrity v. The Regents of the University of California" (Case No. C028522) (<http://www.law.com/regional/ca/opinions/supremecourt/appeal00/c028522.html>). Apparently, the California State Legislature has granted Glantz the right to use his UCSF faculty position to engage in advocacy activities that "promote a smoke-free environment." However, I contend that the way Glantz has used this right is inconsistent with UCSF Campus Code of Conduct and is an abuse of his faculty position. This contention is based in part upon the UCSF response to my July 1, 2005 complaint of alleged scientific misconduct by Glantz, as described above. Furthermore, I have evidence that Glantz has been interfering with my academic freedom and my ability to conduct research with which he disagrees. I do not believe that Glantz should have a special right to use his UCSF faculty position to engage in advocacy activities, especially when he uses this right to restrict the academic freedom of other UC faculty like myself.

6) The UC Regents need to hear from all parties affected by Action Item RE89

In the interest of fairness and completeness, the UC Regents need to hear from all affected parties before a final vote is taken on Action Item RE89. All UC faculty who have received tobacco industry funding be given an opportunity to explain why they consider tobacco industry funding to be important, to demonstrate that they have conducted high quality research with this funding, and to refute the implication that they are part of an enterprise “to support a public deception” about tobacco products. In this regard, UC President Dynes sent out a March 9, 2007 letter asking for comments from UC investigators funded by the tobacco industry. The Regents must consider all these comments before making their decision. In addition, they need to consider the May 9, 2007 decision of the UC Academic Assembly regarding RE89 (<http://www.universityofcalifornia.edu/senate/assembly/may2007/assembly.05.09.07.pdf>).

Attachments (numbered in the order that they are cited):

1. January 26, 2007 *Science* article “UC Balks at Campus-Wide Ban on Tobacco Money for Research” (2 pages) (<http://scientificintegrityinstitute.org/Science012607.pdf> or <http://www.sciencemag.org/cgi/reprint/315/5811/447a.pdf>)
2. October 12, 2006 Seffrin ACS letter to UC Regents (2 pages) (<http://scientificintegrityinstitute.org/SeffrinACS101206.pdf> or http://mywebsite.register.com/db5/00424/academic-integrity.com/_download/ACSNationalLetter10-12-06.pdf)
3. January 24, 2007 Thun ACS letter to Hume (2 pages) (<http://scientificintegrityinstitute.org/ThunACS012407.tif>)
4. February 12, 2007 Oakley letter to Blum (3 pages)
5. March 22, 2007 Hume letter to Seffrin (2 pages) (<http://scientificintegrityinstitute.org/HumeUCOP032207.pdf>).
6. March 29, 2007 Seffrin and Thun ACS letter to Hume (2 pages) (<http://scientificintegrityinstitute.org/SeffrinThunACS032907.tif>)
7. March 1, 2006 Marshall letters to Enstrom (2 pages) (<http://scientificintegrityinstitute.org/MarshallGlantz030106.tif> and <http://scientificintegrityinstitute.org/MarshallBero030106.tif>)
8. March 13, 2007 Marshall letter to Enstrom (1 page) (<http://scientificintegrityinstitute.org/MarshallGlantz031307.tif>)
9. March 29, 2007 Kessler and Eubanks letter to Blum (4 pages) (<http://scientificintegrityinstitute.org/KesslerEubanks032907.tif> or http://mywebsite.register.com/db5/00424/academic-integrity.com/_download/Dr.KesslertoChairBlum-March292007.pdf)