

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 7, 2009

## **Via Electronic Transmission**

Mark G. Yudof  
President  
University of California System  
1111 Franklin Street  
Oakland, CA 94607

Dear Mr. Yudof:

As a senior member of the United States Senate and the Ranking Member of the Committee on Finance (Committee), I have a duty under the Constitution to conduct oversight into the actions of executive branch agencies, including the activities of the National Institutes of Health (NIH/Agency). In this capacity, I am committed to ensuring that NIH and universities receiving NIH monies properly fulfill their mission to advance the public's welfare and make responsible use of the public funding provided for medical studies. This research often forms the basis for action taken by the Medicare and Medicaid programs.

I am writing to you about allegations of financial discrepancies within the Medical School at the University of California at San Francisco (Medical School) (UCSF/University). Based upon the materials that I have obtained and reviewed to date, as well as the interviews conducted, it appears that these allegations were raised by Dr. David Kessler, former Dean of the Medical School, and former Commissioner of the Food and Drug Administration. Some of these same concerns were reported also in the press.

The Medical School at UCSF receives hundreds of millions of taxpayer dollars every year from various federal agencies. If there is any question about the integrity of the finances at UCSF, I am worried that similar problems regarding taxpayer dollars may also exist at other campuses within the UC System, such as UC Davis, UC Berkeley, and UCLA.

In response to my concerns and after discussions with outside counsel, the UC System agreed to engage PricewaterhouseCoopers (PwC) to conduct a limited financial review and to provide a written opinion of the UCSF's internal controls related to its compliance with selected federal requirements. The selected compliance requirements would include: activities allowed or not allowed, allowable costs/cost principles, cash management, period of availability, and reporting.

PwC will apply criteria established by the Office of Management and Budget (OMB) in the Compliance Supplement (Appendix B to OMB Circular No. A-133) in assessing the University's compliance. [ATTACHMENT A] I am glad that the UC System has taken this issue seriously and is committed, like me, to keeping financial safeguards in place to ensure that taxpayer dollars are used in accordance with applicable law.

In addition to the above, my staff investigators also identified a number of troubling matters related to UCSF. These matters include, what appear to be UCSF:

- Appearing to provide misleading statements to the California State Senate; and
- Providing less than accurate statements to the media.

## I. BACKGROUND

In March 2003, UCSF began recruiting a candidate to become the Dean of the Medical School at UCSF. As part of this process, UCSF's Vice Dean of Administration and Finance Jaclyne Boyden faxed the candidate a letter including several charts depicting the financial condition of the Medical School (the Boyden Letter). After joining the faculty in September 2003, the new Dean, raised concerns about the financial information in the Boyden Letter. Based upon the information available to me, UCSF responded by forming a group called the Washington Committee to review the Boyden Letter information.

To further address the concerns about financial integrity, UCSF hired KPMG in 2007. KPMG was charged with preparing independent reports concerning both the Boyden Letter and the work done by the Washington Committee.

## II. UCSF PROVIDING WHAT APPEARS TO BE MISLEADING STATEMENTS TO THE CALIFORNIA STATE SENATE

The conclusions reached by KPMG appear to be materially different from statements that UCSF Chancellor J. Michael Bishop made to the California State Senate. In a letter to California State Senator Abel Maldonado and signed by Chancellor Bishop on March 7, 2008, Chancellor Bishop made what appear to be several inaccurate and/or misleading claims about KPMG's work.<sup>[4]</sup> Specifically, Chancellor Bishop made the following statements to the California State Senate regarding the UCSF'S finances:

- Gift and endowment income in the Boyden letter can be tied back to the General Ledger, as has been **verified** by KPMG. (Emphasis added)
- The actual revenue 'numbers' in the Boyden Letter have been **verified** by the Washington Committee and KPMG as substantially accurate....  
[ATTACHMENT B] (Emphasis added)

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<sup>[4]</sup> Background Memorandum from UCSF Chancellor J. Michael Bishop to California State Senator Abel Maldonado, dated 7 March 2008.

However, it appears that these representations directly contradict the conclusions reached by KPMG. More specifically, KPMG determined the following with regard to its review of the Boyden Letter:

- UCSF **was not able to provide a documented process/methodology** used to create the “Sources of funds” Schedule. Therefore, recomputation of the “Sources of funds” Schedule **was not repeatable and could not be reconciled to the General Ledger**. (Emphasis added)
- [The Boyden Letter] identifies items that should be separately identified and used in computing the figures, but the “Letter” did not identify the specific associated fund number(s). **Due to the lack of a fully documented process/methodology, KPMG could not generate a line by line item reconciliation of the ‘Sources of funds’ Schedule to UCSF’s General Ledger**. [ATTACHMENT C] (Emphasis added)

Furthermore, KPMG’s analysis of the Washington Committee review concluded:

- The methodology used by UCSF to create the “Actual Financial Sources and Uses Schedules” **was not sufficiently documented to be repeatable**, or to allow a third-party to accurately recreate the figures contained within the “Actual Financial Sources and Uses Schedules.”<sup>[3]</sup> [ATTACHMENT D] (Emphasis added)

Interestingly, KPMG had not seen the Chancellor’s letter to California Senator Maldonado until I gave them a copy. After reviewing that letter, KPMG provided the following comments:

- With respect to the schedule in the Boyden letter, KPMG **could not** reconcile any category of revenue back to the General Ledger, including gifts and endowment income. (Emphasis added)
- KPMG **did not address the accuracy of the figures** contained in the Boyden Letter because UCSF was not able to provide a documented process/methodology used to create the “Sources of Funds” Schedule. Therefore, computation of the “Sources of Funds” Schedule was not repeatable and the figures contained therein **could not be reconciled to the General Ledger**. [ATTACHMENT E] (Emphasis added)

In light of this information, please provide any documents/information that can explain the discrepancies highlighted above.

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<sup>[3]</sup> *Id*

### III. UCSF PROVIDING LESS THAN ACCURATE STATEMENTS TO THE MEDIA

I also found it very troubling that UCSF appeared to promote the belief that KPMG substantiated the claims of the Washington Report; however this was not the case. On January 15, 2008, UCSF released to the media the “Washington Report” and KPMG’s review of the Washington Committee Report.

To begin, the “Washington Report” was a 36 page document, with nine attachments [ATTACHMENT F] However, KPMG’s review of the Washington Committee was limited to an analysis of a single page. In conversations with my staff, KPMG said that it was unaware of the fact that a 36 page document with attachments was prepared at all. On the contrary, KPMG was under the impression that a much more limited document was prepared. Furthermore, my staff investigators contacted a faculty member at UCSF who was on the committee that was charged with writing the Washington Report. That faculty member told my investigators that s/he had never seen the completed Washington Report; rather s/he only saw the single page that was analyzed by KPMG.

Furthermore, when shown all 36 pages of the “Washington Report” that UCSF released, KPMG responded:

KPMG **did not** receive a copy of the “Washington Report” when it began its engagement in July 2007. UCSF provided KPMG with certain documents, including Excel spreadsheets, some of which appear to include information contained in attachments to the “Washington Report”. (Emphasis added)

A few weeks after releasing its version of the Washington Report, UCSF put out an Executive Summary regarding KPMG’s analysis of the Washington Report. [ATTACHMENT G] UCSF’s summary stated, “Principle Conclusion: **the findings of the Work Group were substantiated.**” (Emphasis added)

Again, KPMG disputes UCSF’s principle conclusion. In addition KPMG added that it did not review or comment on UCSF’s Executive Summary of KPMG before UCSF put out its conclusion that was inconsistent with the material in my possession. When asked to comment on UCSF’s summary of its report, KPMG responded, “KPMG **does not believe that this conclusion substantiates the key findings of the Washington Report.**” (Emphasis added)

In light of this information, please provide any documents/information that can explain the discrepancies set forth above.

I thank you again for your continued cooperation and I would appreciate receiving the information requested in this letter by December 21, 2009. If you have any questions please contact my Committee staff, Paul Thacker at (202) 224-4515. Any formal correspondence should be sent electronically in PDF searchable format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov).

Sincerely,



Charles E. Grassley  
Ranking Member

Attachments