



Clemson University Struggles with Lawsuit

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Over the past couple of months, The Tiger Town Observer has been following a lawsuit against Clemson University officials that alleges the University intentionally misled the public about its finances while accruing \$80 million in reserves without any specific earmark for use. The lawsuit, filed by former Executive Secretary of the Board of Trust Eugene Troutman, targets nearly the entire Board of Trust as well as top university officials like President Jim Barker, General Counselor Clay Steadman and Vice Provost Doris Helms. "Representatives of the University made nonfactual public statements regarding the need for tuition increases," read the complaint filed by Troutman's attorney earlier this year. "Year after year, the Defendants hoarded the cash generated by these increases."

Many of the lawsuit's allegations were concurrent with statements from former Clemson employees who spoke of similar acts of corruption while employed. "My big issue at that point and time was that Clemson had done a few tuition increases that were really big and compiled \$40 million dollars," Scott Ludlow, the former Chief Financial Officer for Clemson University, told The Observer in a previous interview. "They were proposing another 14 percent increase, and I went in and told them they could invest \$20 million into fixing their buildings and still only need to increase tuition by 6 percent. However, they said they could get away with a 12 to 14 percent increase and told me I needed to be more of a team player." Ludlow added that Clemson failed to make building improvements, and later fired him for what he said amounted to asking too many questions and not playing along with Clemson's financial manipulations.

Since The Observer first broke the story in February, considerable progress has been made on the lawsuit. Most notably, the lawsuit overcame its first major obstacle late last month after Senior U.S. District Court Judge Matthew J. Perry dismissed a motion by Clemson attorneys to throw out the case. Additionally, Perry denied a motion to move the case from Columbia to the upstate. Perry's rulings came after four hours of arguments, and cleared the way for the lawsuit to continue in Federal court.

Clemson still maintains no wrong-doing, despite The Observer's own confirmation of one

of the lawsuit's allegations that says Clemson lied to public officials, including U.S. Senator Lindsay Graham, in a cover-up the theft of more than 100 thousand dollars of research equipment from an outdoor lab in 2003. Additionally, as the lawsuit states, a Clemson employee was terminated for failing to take the blame for the stolen equipment.

Tuition at Clemson increased by nearly \$4,000 from 2001 to 2007 -- the time period in which the lawsuit says Clemson stockpiled \$80 million in unallocated funds. As expected, Clemson students have reacted with shock and anger about the allegations in the lawsuit, especially as they struggle to keep up with some of the largest tuition hikes in the nation. Several students and Clemson alumni have suggested a class-action lawsuit against the University to recoup tuition money they say was unfairly raised through false statements by Clemson officials to the public about the need to raise the cost of education.

Sidewalk "chalkings" spotted across campus decry University misconduct. "What could Clemson do with \$79.1 million?" reads one message. "Not keep raising tuition 15.6%/yr? [sic]...Learn about the men who spoke up and lost their jobs." Then, the message says to email clemsonripoff@yahoo.com. A group on popular social-networking site, Facebook.com called "Clemson Exec Committee charged too much for Tuition" has grown to nearly 250 members.

Clemson response avoids issues

While University officials declined to comment on many of the lawsuit specifics, Barker has attempted to counter criticism of its financial reporting, and issued a mass email to students and others trying to explain the allegations and the information The Observer reported. In the email, Barker stated the lawsuit's accusations were baseless, and claiming, "I can assure you that the lawsuit has nothing to do with Clemson's financial management practices, which are based on sound, conservative business principles."

In an interview with The Observer, Troutman claims the facts show otherwise. "Jim Barker has launched a public relations campaign that misrepresents the lawsuit filed against him," says Troutman. "The complaint factually states that the Unrestricted fund balance grew over multiple years, not by stated design or by any plan approved by the Board of Trustees, but by default as a result of no oversight of utilization of resources. The facts of the complaint have everything to do with Barker not wanting a 'watchdog' in his administration. It further states that he took action to silence anyone who sought to address important matters of public concern that were contrary to his agenda."

The University's responses to the case do appear to raise more questions than they solve, and for the most part, completely evade answering the actual allegations of the case. Barker insists that Clemson was given a clean financial audit report by the firm KPMG, which the lawsuit does not deny. The lawsuit does not claim that Clemson practiced false accounting practices in compiling the hoard of cash. The real questions that Clemson has yet to answer is why they continued to increase tuition by leaps and bounds while also increasing the size of their Unrestricted pool of cash.

It is true that Clemson did accumulate a hoard of \$80 million, and did not publicize the stockpile while telling the general assembly they were desperate for more funding. The question was not "how" Clemson reported the Unrestricted cash, but what they reported during audits. Barker explains that the \$80 million was a result of an accumulation of what accountants call "carry forwards," meaning surplus balances of specific or general allocations that can be carried over to the next year. This may be true, but only in the event that the carry forwards are within reason, and that the originally stated purposes of these allocations were legitimate and acted upon. In other words, Clemson did not simply create a bogus use for the funds in order to make them appear to be legitimate holdings by the University in their Unrestricted cash fund.

However, if the carry forwards are excessive, and their stated purpose for allocation remains unfulfilled (large balances on projects that go uncompleted), then it would show that the carry forwards were not a result of fiscal management or efficient spending, but because the initial costs were overstated, or fraudulent altogether. Though, during an audit, it would appear to be legitimate.

If the latter is the case, as would explain how such a large accumulation of money was amassed, then Clemson misrepresented what it intended to do with the money or either overstated the initial costs due to irresponsible planning or outright fraud. Because an external auditor's statement for a government agency would perform this type of analysis, as that this type of oversight would only be done by internal auditing functions within the University, the misrepresentation of these carry forwards would go unchecked or unnoticed.

Barker claims in his email to the Clemson list that the term "Unrestricted" is simply an accounting term, and does not necessarily imply the funds are "not uncommitted." However, the allegations never specifically brought issue to whether or not these funds were committed or uncommitted like Barker seems to indicate. In fact, this point is rather moot because of the fact that the allocations are Unrestricted to begin with. The problem with carry forwards of Unrestricted cash is that their allocations can be changed at any time, for whatever reason. Therefore, even if Clemson can show that these funds, at some point during their accumulation, had a specific purpose, it does not change the fact that Clemson amassed \$80 million through sloppy expense projections or plain deceit.

The truth of the matter is that proper internal auditing would have caught both fraudulent and benign accounting problems before they resulted in an embarrassingly large pool of Unrestricted cash. But, as multiple employees have personally recounted to The Observer, when this oversight was suggested, Clemson officials terminated these employees' positions to avoid having a "watchdog" looking over their shoulders.

As a result, students are beginning to ask why they should pay for future projects they will never use or enjoy when Clemson continues to accumulate millions of dollars through these tuition increases that are neither used nor allotted. Many students also question why current students must pay for known and unknown expenses of future classes when Clemson clearly has the surplus funds for such expenses, as well as complete control of cash flow that could offset these future expenses as they occurred. Was covering budget shortfalls and unexpected expenses not the purpose of the

Unrestricted cash pool? And, if so, why did it continue to grow? Why were current students charged for the expenses of future students? Why were students expected to cover unknown expenses that may never appear while Clemson is guaranteed nearly 98 percent of its budget from year to year through control of tuition and enrollment? Why were essential infrastructure projects like building repair neglected as Clemson bankrolled \$80 million in unused funds?

As stated in a previous interview, Ludlow never denied the need for a University to keep a cash reserve for such expenditures, known and unknown. However, Ludlow emphasized that such a cash reserve was well below what Clemson had accumulated for an institution the size of Clemson. "Yes, it is a good practice to have a little bit of money tucked away," Ludlow said. "But it is quite a difference to have a state institution like Clemson to have that much money in reserves. This is not good for an institution that has state funding and control over tuition and fees."

As lawsuit progresses, more violations may appear

Following The Observer's coverage of the lawsuit and the subsequent media coverage, Troutman has acknowledged that his attorney has been receiving calls from employees of Clemson who are giving tips of where else Clemson's financial practices should be investigated. Often, these callers refuse to give their names for fear of retribution by Clemson, which has now seemingly become standard practice at the University in dealing with employees it feels are acting too much like "watchdogs."

The Observer has learned that one caller specifically mentioned pesticide registration fees, pesticide licensing fees and other such fees paid from pesticide applicators in South Carolina to Clemson University's Public Service Activity for Pesticide Regulation. The Department of Pesticide Regulation at Clemson is the enforcement and investigative authority for pesticide use in South Carolina.

Also, Clemson has finally hired a permanent replacement for Troutman, after he was fired last summer. Steadman had staffed the position, despite his simultaneous role as General Counselor to the University. Replacing Troutman will be Angela Leidinger, who also is the University's top lobbyist in Columbia.

However, Leidinger's selection to the Executive Secretary of the Board of Trustees may possibly violate state law. According to South Carolina law, it is unlawful for any lobbyist to also be a member of any state board or commission, which would include the Clemson Board of Trustees. Additionally, Clemson Board of Trust member Bob Peeler's, who is an elected member and whose term ends this year, may also be running afoul of this state law because of his recent position with Waste Management. Peeler was hired at the end of last year to serve as the manager of community and municipal relations in the Midlands and Upstate.

Web site will promote public understanding

As the lawsuit continues inside the courtroom, Troutman says he is working on a Web site that will host all of the public documents related to the lawsuit so the public may view the details of the case for themselves. The Web site, www.Clemsonlawsuit.com, is expected to be ready for launch April 20, and will also include an option for individuals to give donations to help cover some of the costs of the case. Troutman says that in the event the case is won, all donations raised through the Web site will be refunded in the form of a gift to Clemson in the donor's name to help fund what he calls a "watchdog" position within the university to help oversee Clemson's finances.

For more information on the lawsuit and other allegations in the case, please visit www.tigertownobserver.com, and look for the article "Lawsuit Rocks Clemson University." Readers can find the original complaint in the case at www.clemson.edu/~Observr/Complaint.pdf.

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