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IN THE MATTER OF:

UNIVERSITY OF CENTRAL FLORIDA'S USE OF
EDUCATION AND GENERAL FUNDS

DALE WHITTAKER

DATE: February 18, 2019
PLACE: House Office Building
402 South Monroe Street
Tallahassee, Florida 32301
TIME: 1:00 p.m. - 1:32 p.m.
REPORTED BY: JUDY CHIN
RPR, CRR, FPR

ACCURATE STENOGRAPHY REPORTERS, INC
2894 REMINGTON GREEN LANE
TALLAHASSEE, FL 32308 (850)878-2221

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REPRESENTING: HOUSE OF REPRESENTATIVES

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STIPULATIONS

9 The following deposition of ALAN DALE
10 WHITTAKER was taken on oral examination, pursuant to
11 notice, for purposes of discovery, and for use as
12 evidence, and for other uses and purposes as may be
13 permitted by the applicable and governing rules.
14 Reading and signing is waived.

15

* * *

16 Thereupon,

17

ALAN DALE WHITTAKER

18 was called as a witness, having been first duly sworn,
19 was examined and testified as follows:

20

THE WITNESS: I do.

21

DIRECT EXAMINATION

22 BY MS. MITZ

23

24

Q Can you please state your full name for the
record.

25

A Alan Dale Whittaker.

1 Q And have you discussed this deposition with
2 anybody besides your attorneys?

3 A No.

4 Q Okay. Have you reviewed anything in
5 preparation for this deposition?

6 A My own materials.

7 Q Okay. Would that include the notes from your
8 interview with Brian Cave?

9 A Yes.

10 Q And did you review the witness interview
11 statements of other people who had been interviewed?

12 A Were those the interview notes?

13 Q Yes.

14 A Yes, I did.

15 Q Did you review all of them?

16 A No.

17 Q Do you recall whose you reviewed?

18 A Bill Merck, Tracy Clark, Christy Tant, Dale
19 Whittaker.

20 Q Okay. Mr. Merck wasn't an interview.
21 You are referring to the letter that he wrote?

22 A I'm sorry. Yes.

23 Q That's fine.

24 A No, I'm not referring to a letter that he
25 wrote.

1 Q Okay.

2 A I misremembered.

3 Q That's fine. Have you been interviewed or
4 asked questions by anybody within UCF, like for instance
5 the General Counsel's Office, or anybody?

6 A No.

7 Q Okay. Okay. So let's start with your
8 employment.

9 Where were you employed just before joining
10 UCF?

11 A Purdue University.

12 Q Your position there?

13 A Vice provost for Undergraduate Academic
14 Affairs.

15 Q Can you tell me a little bit about what you
16 did there.

17 A Sure. Basically there were two vice provosts
18 that reported to the provost. One was Faculty Affairs
19 and the other was Academic Affairs. The word
20 undergraduate was added for emphasis. It involved
21 admissions, financial aid, student support, honors
22 college, student success.

23 For a short time I was interim vice president
24 for Student Affairs.

25 Q What did you do in that capacity?

1 A The same thing. Oversaw all of the student
2 affairs units that basically supported students outside
3 of the classroom.

4 Q Okay. How long were you employed there?

5 A Twelve years. Maybe just over 12 years.

6 Q Did you leave and then come to UCF or was
7 there a significant break in between the two positions?

8 A No. Directly from Purdue to UCF.

9 Q What was your first date with UCF?

10 A August 1st.

11 Q Of which year?

12 A 2014.

13 Q Okay. And what was the position that you took
14 with the University?

15 A Provost and vice president for Academic
16 Affairs.

17 Q And what did that involve? What were your
18 duties and responsibilities?

19 A Actually, I have a copy, just in case it is
20 useful to you.

21 MR. COATES: We brought a copy of his resume.

22 THE WITNESS: This is a very short summary. I
23 also have a more full copy. It gives you a sense
24 of responsibilities.

25 Let me tell you what they really were. They

1 were overseeing, being responsible and accountable
2 for 13 colleges, all of the academic colleges;
3 medical affairs, research and commercialization,
4 enrollment management, all curriculum matters,
5 financial aid, the graduate school, and all
6 graduate matters in student involvement.

7 BY MS. MITZ

8 Q Okay. And who were your direct reports?

9 A Actually, I think I have a copy of a provost
10 --

11 Here we go. So you can replace the current
12 provost with me, if you would like.

13 But this gives you a sense. So you see in
14 that first column all of the deans, Dean of Honors, Dean
15 of College of Education, Health Profession, so on. The
16 left-hand side you see the vice provost and vice
17 presidents.

18 So, for example, the vice president for
19 Student Development Enrollment Services reported to me;
20 Digital Learning, IT, Faculty Excellence, International
21 and Graduate.

22 And then on the right side you see more staff.
23 Ronnie Korosec was my chief of staff. Sheryl Andrews
24 who was our negotiator with the faculty union. Paige
25 Borden who really did institutional research. You see

1 Tracy Clark there who supported me on budget and
2 finance. And Joe Adams, previously that was Christine
3 Dellert. This is a new person here.

4 Q Did you work or did Lynn Gonzalez work for you
5 or report to you at some point?

6 A When I started she was the --
7 This is the Academic Affairs Division. Okay.
8 Lynn Gonzalez was the business manager for the Academic
9 Affairs Division.

10 Q Okay. All right. And do you recall about how
11 long you worked with her?

12 A I did a major reorganization in the summer of
13 the first year I was there, and she would have been
14 moved along during that reorganization or maybe even
15 slightly before then.

16 Q Okay. So within your first year on the job it
17 sounds like?

18 A Yes.

19 Q And what was your working relationship with
20 Bill Merck in the first few months while you were there?

21 A Bill was parallel. So there were divisions
22 that reported to the president. Let me be clear about
23 that.

24 So in addition to Academic Affairs, vice
25 president for Academic Affairs, Communications and

1 Marketing, Office of General Counsel, UCF Advancement,
2 Public Relations, which was government and community
3 relations, Athletics, and Administrative and Finance
4 reported directly to the president. The administration
5 and Finance Division was Bill Merck. Bill Merck was a
6 vice president that was parallel to me in the
7 organization chart.

8 Q Okay. Did you guys work together often I
9 guess in the first few months?

10 A We saw each other in the cabinet meetings with
11 the president. And we saw each other at the coffee pot.
12 I wouldn't say we worked together very heavily in the
13 first few months, although when I had questions that I
14 thought he could answer I would ask.

15 Q And did you meet regularly with Dr. Hitt?

16 A Yes.

17 Q And did that start at the beginning of your
18 employment?

19 A Yeah. We had basically weekly standing
20 meetings.

21 Q All right. I think my next question may be
22 answered by the chart that you provided. I will want to
23 mark this as an exhibit as well as his resume.

24 BY MR. RUBOTTOM

25 Q With that respect, other than Tracy who has

1 been -- who I believe is on her way out, if not out, is
2 it your testimony this is a current, accurate org chart
3 to the best of your knowledge of the Provost's Office at
4 this time?

5 A Let me take a look. This is printed out 8/16,
6 and I started July 1st.

7 Q As of the date of that, that was an accurate
8 chart?

9 A Yeah, it would be.

10 The changes, Joe Adams came out of the
11 President's Office, and I took my communication person
12 from provost --

13 Ronnie has now moved along, but that's since
14 this time. These are all correct.

15 MR. RUBOTTOM: We will mark that as Exhibit 1.

16 (Exhibit No. 1 marked for
17 identification.)

18 BY MS. MITZ

19 Q So what exactly did Tracy Clark do in her role
20 in relation to your position?

21 A She supported our budget and financial needs
22 for the Academic Affairs Division. She took Lynn
23 Gonzalez's place.

24 Q Okay. All right. Did her role develop or
25 expand as she continued to work with you?

1 A Tracy at that time reported to Bill Merck and
2 to me.

3 Q Okay.

4 A And the reason that I did that was frankly I
5 had --

6 First of all, I came into the Provost Office
7 with a professorial background, I would say not a lot of
8 finance and budgeting background. But I am an engineer
9 and smart enough to know numbers and questions to ask.

10 Lynn Gonzalez never was able to clearly
11 provide me with an answer that I could understand --
12 tremendous opacity and ambiguity.

13 Tracy was able to, when I was in meetings that
14 she was in, was able to basically explain things in
15 a way that I could understand them. I found her very
16 smart and direct.

17 So my intent --

18 Well, let me just leave it at that.

19 Q Who did you consider the budget expert at the
20 University?

21 A Oh, Bill, or someone that he would have
22 delegated.

23 So the chief budget officer was Bill Merck. I
24 don't know if that was his title. But his title was CFO
25 and VP for Administration and Finance.

1 Q How would you contrast the role of provost
2 with the role of a CFO?

3 A CFO was the chief financial officer. The
4 provost was the chief academic officer. So I had
5 responsibility and accountability for the entire
6 academic budget, which really makes up the majority of
7 the University's operating budget.

8 The chief financial officer had responsibility
9 and accountability for the integrity of our finances,
10 for the integrity of the University's financial position
11 and the integrity of the sources of funds.

12 Q What was your role in budgeting?

13 A My role in budgeting was focused on academic
14 prioritization of the uses of our available funds. So
15 let me be clear. Academic Affairs has a budget, the
16 division does. The division allocates budget then to
17 all of the colleges and units that I mentioned.

18 Q Okay. And did anybody in particular assist
19 you in your role?

20 A Tracy or Lynn, depending on who our budget
21 manager was.

22 Q And did you ever have budgeting questions at
23 any given time?

24 A Sure.

25 Q Who would you have taken those to?

1 A Lynn early on. Tracy after that.

2 Q Okay.

3 A We also had some other support. Megan Diehl
4 worked for either Lynn or Tracy, depending on the time
5 through those four years. But transactional.

6 MS. MITZ: I don't think I have any more
7 questions.

8 MR. RUBOTTOM: Okay. Thank you.

9 BY MR. RUBOTTOM

10 Q Dr. Whittaker, as you know a lot of the Brian
11 Cave investigation and other discussions have focused on
12 responsibilities of varying people. We are curious to
13 know who you think that staff would direct questions
14 about the legal use of various sources of funds.

15 A Well, first of all, the capital planning --
16 the capital budgeting facilities all fell within Bill
17 Merck's organization.

18 Q I understand.

19 A So staff would direct questions to Bill Merck
20 about the appropriate use of funds.

21 Q Who would you expect or think that the CFO
22 would take his own questions on those matters?

23 A Bill was known to the cabinet as the person
24 that had the most credible links to Tim Jones and Chris
25 Kinsley and Ben Watkins. So Division of Bond Finance

1 and Board of Governors.

2 Q Think about the university audit staff. If
3 they had questions that came up in their work or that
4 were brought to them that they didn't know the answer
5 to, particularly with respect to legitimate uses of
6 different sources of funds, who do you think the audit
7 staff would go to with those questions?

8 A If it was legitimate uses of funds, it would
9 be Bill Merck.

10 Q Okay.

11 A In fact, as I said, the audit staff reported
12 directly to the president.

13 Q Right.

14 A And when an audit would come in, they would
15 farm out the findings. I remember because I think it
16 was 2016 I got one, and it was around textbook
17 affordability.

18 Q Right.

19 A But then it would have been Bill Merck.

20 Q You are talking about the state audit?

21 A Yes.

22 Q And I think we understand that process.

23 But just internally in the University, it is
24 our understanding that employees might contact Audit or
25 the Compliance Department with their own questions. I

1 am curious where you thought internally, if there wasn't
2 a state audit question raised, where Mr. Taft's crew or
3 whoever preceded him where they would go to get their
4 questions answered?

5 A Bill Merck.

6 Q Okay. To whom do you think the general
7 counsel would take similar questions?

8 A Would you just further define similar
9 questions?

10 Q Questions about legitimate uses of sources of
11 funds.

12 A I think they would seek statute. They would
13 verify those independently. That's always been my
14 experience with general counsel.

15 Q Who do you hold most responsible for
16 understanding -- in general understanding the law and
17 regulations governing the university?

18 A The university?

19 Q Yes.

20 A Scott Cole.

21 Q Then with respect to the legitimate uses of
22 various sources of funds, what would your answer be?

23 A Bill Merck.

24 Q Okay. Now, think about the trustees for a
25 minute. To whom do you think the trustees would look to

1 advise them generally on the laws and regulations
2 governing the university?

3 A Scott Cole.

4 Q And then legitimate uses of funds?

5 A Bill Merck.

6 Q Thank you.

7 So tell us if you would about the formation of
8 the University Budget Committee. I think sometime after
9 you came you said maybe it was defunct or had been in
10 limbo. It is our understanding you resurrected it.
11 Tell us about that process.

12 A Sure. As I mentioned, when I came I came
13 without budget and finance expertise or background. I
14 was fairly frustrated by the opacity of the support
15 within my own office. And I had the impression from
16 deans and others that the budgeting -- the budget
17 prioritization process was opaque and not often informed
18 by academic issues or priorities.

19 I went to the president, and we were
20 discussing that in a one-on-one, and he said, well, in
21 2008 before that we had a University Budget Committee
22 that the provost chaired to ensure that our uses were
23 prioritized, do you want to do that again? I said, yes.

24 So it was probably within two months of my
25 arrival we reconvened the University Budget Committee to

1 oversee the prioritization of uses of our funds.

2 Q So in follow up to that, would that -- and
3 this is what I kind of surmised, so I want you to tell
4 me if I'm right or wrong -- was that in an attempt to
5 broaden the collaboration on some of those budget
6 prioritization issues throughout the University?

7 A Absolutely. It was made up of vice presidents
8 and a faculty member and a student.

9 Q So when you say opacity, you are speaking of
10 there wasn't very many people that knew what was going
11 on inside of the machine and this broadened that?

12 A Yes.

13 Q Okay. So what was Mr. Merck's role on that
14 committee?

15 A The president asked me to chair it. I asked
16 the president if -- or I proposed to the president that
17 Bill Merck co-chair it with me. So we were listed as
18 co-executive champions, is I think what we called it, of
19 the committee, mainly so that he and his staff staffed
20 it in terms of the integrity of the sources and
21 availability, and then our -- the rest of the committee
22 had the ability to set priorities when those
23 opportunities arrived.

24 Q Those priorities with available funds?

25 A Yes.

1 Q And so his role would have been availability
2 and your role would then be lead the discussion as to
3 that prioritization?

4 A Exactly. In fact, we did that through
5 hearings.

6 Well, I don't know if it was the first time in
7 their history -- a first time in a long time where
8 people would make their proposals, we would evaluate
9 them and we did that formal prioritization process of
10 uses.

11 Q Is there anything more you would like to add
12 about just the distinction in the two roles of the two
13 co-chairs?

14 A The one thing that I would like to clarify is
15 no capital projects came before that committee. These
16 were recurring and non-recurring sources, usually
17 incremental sources, but was a different planning
18 process, and that was within his division.

19 Q Have you publicly -- have you said publicly
20 since the audit findings were published back in August
21 or since everybody became aware of them, have you said
22 publically that you were never told that E&G funds could
23 not be used for fixed capital outlay projects?

24 A I was never told that E&G funds could be used
25 for new construction.

1 Did you say fixed capital outlay?

2 Q Were you ever told that they could not be used
3 for new construction?

4 A I was never told.

5 Q Never told that they could not be?

6 A I was never told that they could not be.

7 Q Thank you for clarifying that.

8 Okay. We are very familiar with your public
9 statements about the audit findings and the Brian Cave
10 investigation that have been made. We reviewed your
11 response to the audit, your statements in the various
12 board meetings since starting September 6th.

13 Is there anything that you would like to add
14 or take back from the public statements that either you
15 made in open meetings or that were published on the
16 university web page?

17 A What I tried to -- what I said that I recall,
18 and I would not change this, is that I was never made
19 aware that use of funds for Trevor Colbourn Hall
20 violated state statute or Board of Governor regulations.
21 And that is true.

22 Q Thank you. I got these in wrong order.

23 Did you read the Brian Cave report and review
24 the exhibits?

25 A I read the report. I didn't review all the

1 exhibits.

2 Q Okay. There is probably enough of us doing
3 that.

4 Do you disagree with any of the findings or
5 conclusions in that report?

6 A No.

7 Q Do you have any concerns about any of them or
8 lingering questions about any of those findings?

9 A My biggest concern was the lack of context of
10 the differences of authority and responsibility between
11 Bill Merck's division and my division. And I thought
12 that the findings left ambiguity, and you have resolved
13 quite a bit of that ambiguity through your questions.

14 Q Beginning with let's say Chancellor Krizer's
15 now-famous conference call with UCF personnel in August,
16 who has advised you about handling the questions about
17 the Trevor Colbourn Hall matters and the other E&G
18 funding questions that have arisen?

19 A I have been staffed by my direct staff.

20 I don't know that I'm understanding your
21 question. Maybe you can restate it.

22 Q Well, I appreciate that your direct staff has
23 advised you on those matters.

24 If I can be a little more direct. Has Scott
25 Cole advised you on how to respond to those concerns?

1 A He has not advised me on how to respond.

2 Q Have any of the trustees advised you on how to
3 respond?

4 A No.

5 Q Okay. Okay. And this is my last question:

6 A Okay.

7 Q That's why we are here.

8 Is there anything that you think that the
9 Public Integrity and Ethics Committee of the House needs
10 to know about the facts of this matter that you think
11 might not be known by the Committee or the Committee
12 staff?

13 A Yeah. What I was hoping you would ask were
14 the clarification questions of roles, accountability and
15 responsibility, and you have. I appreciate that.

16 What I don't think is known and I would like
17 you to know is what I've done as president since
18 learning about this to take corrective action in
19 addition to having participated fully in the
20 investigation, which included having my cellphone
21 imaged, my computer imaged, all of my emails, providing
22 a full interview to Brian Cave's representative.

23 So if you don't mind, I brought a copy, but I
24 would like to read this or submit it into the record.

25 Q Have you read this document or any portion of

1 it in any public meetings that has previously occurred?

2 I don't want to duplicate any of that.

3 A No.

4 Q I think to save your time and everybody's
5 time, we can mark this as an exhibit.

6 And you would say that it is your testimony
7 that these are the actions that you have taken to
8 initiate corrections?

9 THE WITNESS: Is it clear that this becomes --
10 goes into the record --

11 MR. COATES: Enter it into the record as an
12 exhibit.

13 THE WITNESS: It would be found in the record,
14 say if someone requested it in the same way that me
15 reading it will be?

16 BY MR. RUBOTTOM

17 Q This will be Exhibit 2.

18 Your testimony is this accurately reflects
19 your actions beginning in September to correct the
20 problems that were identified?

21 A Then yes.

22 (Exhibit No. 2 marked for
23 identification.)

24 MR. COATES: Fair enough. That will save a
25 good bit of the afternoon.

1 BY MR. RUBOTTOM

2 Q Because this has come up with other counsel, I
3 want to take it in advance.

4 We agree that this is an investigative
5 deposition and has not offered full cross-examination
6 which may limit its use in judicial proceedings.

7 Counsel in light of that agreement on the
8 record, do you have any questions for the witness?

9 MR. COATES: No.

10 MR. RUBOTTOM: At this time we would like to
11 continue this deposition to a later time and place
12 to be agreed between yourself and the committee.

13 Do you understand that today's subpoena has
14 continuing force to ensure such later continuation
15 if necessary?

16 THE WITNESS: Yes, I do.

17 MR. COATES: We will stipulate to that.

18 MR. RUBOTTOM: Do you agree to that?

19 MR. COATES: Reach out to me and make me the
20 point of contact if you need to reach him.

21 MR. RUBOTTOM: Madam reporter, I think we are
22 through.

23 THE COURT REPORTER: Do you want this
24 transcribed?

25 MR. RUBOTTOM: Yes, we do.

1 THE COURT REPORTER: Read or waive?

2 MR. RUBOTTOM: There is one more thing.

3 Do you want to enter this CV into --

4 MR. COATES: Your resume?

5 MR. RUBOTTOM: Do you want to enter this into
6 the record? Do you want to testify it is accurate
7 --

8 THE WITNESS: It was really made to answer
9 your questions about what I oversaw and so-and-so
10 on.

11 MR. RUBOTTOM: I think what you said on the
12 record was sufficient.

13 MR. COATES: It was more to show the academic
14 background as opposed to, you know, a
15 financial/whatever background.

16 THE COURT REPORTER: Do you want a copy?

17 MR. COATES: Do you want to read it or waive
18 it?

19 THE WITNESS: Read it.

20 MR. COATES: Okay.

21 THE WITNESS: What's your advice counsel?

22 MS. MITZ: Read or waive involves you reading
23 her transcript to make sure she didn't type
24 anything down wrong. If you recall you said
25 something as being green and she typed it down red,

1 I remember saying red -- it is not an opportunity
2 to change your testimony --

3 THE WITNESS: But an opportunity to enter an
4 errata?

5 I would like to reserve the right to read it.

6 THE COURT REPORTER: You do want a copy?

7 MR. COATES: Sure.

8 (Discussion off the record.)

9 THE WITNESS: If the alternative is on the
10 record, if you will allow a revision, let's do
11 that. That way it can move quicker.

12 MR. COATES: We will waive reading.

13 (Thereupon, the deposition was adjourned at
14 1:32 p.m.)

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CERTIFICATE OF OATH

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STATE OF FLORIDA)
COUNTY OF LEON)

I, the undersigned authority, certify that
the above-named witness personally appeared before me
and was duly sworn.

WITNESS my hand and official seal this
20th day of February, 2019.



JUDY CHIN, RPR, CRR
Notary Public
#GG 098477
Expiration: 5/25/21

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CERTIFICATE OF REPORTER

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, JUDY CHIN, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 26 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 20th day of February, 2019.



JUDY CHIN, RPR, CRR
Notary Public
#GG 098477
Expiration: 5/25/21

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