

AMCHA INITIATIVE
ISRAELI-AMERICAN COALITION FOR ACTION
ISRAELI-AMERICAN COUNCIL
LAWFARE PROJECT
SCHOLARS FOR PEACE IN THE MIDDLE EAST
SIMON WIESENTHAL CENTER
STANDWITHUS
ZIONIST ORGANIZATION OF AMERICA

August 15, 2016

Chancellor Gene Block
University of California, Los Angeles
Chancellor's Office
Box 951405, 2147 Murphy Hall
Los Angeles, CA 90095-1405

Dear Chancellor Block:

We write because of our deep concern about the price that Milan Chatterjee, a UCLA law student and the former president of the Graduate Student Association (GSA), is being forced to pay as a result of his judicious, good faith efforts to prevent the GSA from becoming embroiled in what has been a heated – as well as hateful and hostile – debate on campus about the Boycott, Divestment and Sanctions (BDS) movement against Israel. Last September, a registered student group called the Diversity Caucus sought funding from the GSA for an upcoming diversity event. The request was granted, with the stipulation that the GSA would not be funding any event organized by or connected with “Divest from Israel or any related movement/organization.” In subsequent communications with a representative of the Diversity Caucus, Mr. Chatterjee made it clear that this stipulation applied equally to advocates for and against BDS. The Diversity Caucus representative agreed to the stipulation and the group accepted the funding without objection. The diversity event took place on November 5, 2015, without incident, with the GSA’s financial contribution. Many organizations participated in the event, including supporters of and opponents to BDS.

More than two weeks after the diversity event, legal representatives of another registered student group, Students for Justice in Palestine (SJP) suddenly weighed in to criticize the stipulation – which had not been an issue for anyone else at any time before – alleging that the stipulation violated the First Amendment. In response, some of the undersigned organizations wrote to you, furnishing you with a detailed legal analysis demonstrating that the stipulation was viewpoint neutral and constitutional. We understand that Erwin Chemerinsky, the Dean of the University of California, Irvine School of Law and a renowned First Amendment scholar, likewise opined in his own letter that the GSA could, without running afoul of the First Amendment, decide to not to fund any programs or events concerning the topic of BDS.

Nevertheless, questions concerning the stipulation escalated as the result of the maneuvering of the SJP and its allies, and the maneuvering targeted Mr. Chatterjee whose objective had simply been to maintain the GSA's neutrality on the contentious and divisive topic of BDS. On February 29, 2016, more than three months after the diversity event, the SJP and the Diversity Caucus filed a complaint against Mr. Chatterjee, alleging that he violated University of California policy (PACAOS 86.30) requiring viewpoint neutrality in the allocation of mandatory student fees. This was coupled with a vicious public relations campaign against Mr. Chatterjee and numerous efforts to remove him from his position as GSA president.

We are very troubled not only by these bullying and harassing tactics, but also by UCLA's seeming indulgence of them. Rather than supporting and protecting Mr. Chatterjee and conceding that the administration played a significant role in allowing the stipulation to become an issue, UCLA instead actually appears to be scapegoating Mr. Chatterjee, too. We urge you to intervene immediately and put a stop to these activities. Mr. Chatterjee should be exonerated, apologized to, and permitted to finish law school in peace and to pursue his personal and professional goals without any unjust and undeserved blemishes on his academic record.

We have reviewed many materials related to this matter, including (1) the Investigation Report that UCLA's Discrimination Prevention Office (DPO) issued on June 29, 2016, in response to the complaint filed against Mr. Chatterjee by the SJP and the Diversity Caucus; and (2) the letter dated July 28, 2016, from Peter M. Weil, Esq., Mr. Chatterjee's counsel, to Dion Raymond, a Discrimination Prevention Officer at UCLA, raising many serious questions about the DPO's investigation and the many significant flaws in its Investigation Report.

UCLA's Own Failings – Not Milan Chatterjee's Actions – Are The Problem

We share Mr. Weil's concerns and wish to highlight a few of them. First, the evidence is crystal clear that Mr. Chatterjee and others made numerous efforts to ensure that the GSA stipulation comported with University of California policies, repeatedly seeking guidance and counsel from the UCLA administration, but that these efforts were not responded to and were ignored. Although this information is absent from the DPO Report, Mr. Chatterjee's counsel notes that the two GSA faculty advisors, as well as a UCLA administrator, received copies of the stipulation within minutes of the time it was issued on October 16, 2015 – without even the slightest indication from any of these three individuals that the stipulation violated any University of California policy or was problematic in any way. The DPO Report does acknowledge that on October 23, 2015, the Diversity Caucus representative who had requested the funding from the GSA emailed UCLA Vice Chancellor Jerry Kang about whether the stipulation was permissible, but the Vice Chancellor failed to respond. The DPO Report also acknowledges that the SJP repeatedly raised concern about the stipulation – with Student Affairs, the Dean of Students, Legal Affairs, and the Office of Equity, Diversity and Inclusion – but not a single one of them responded.

In light of this evidence, it is difficult to conceive of how the DPO could possibly find Milan Chatterjee culpable based on the stipulation, when all along, several UCLA officials knew about the stipulation but failed to voice any concern about it. Making matters worse, the DPO

Report blames Mr. Chatterjee for failing to comply with the University of California's viewpoint neutrality policy, yet ignores the fact that UCLA was derelict in its duty to provide the requisite guidance to the UCLA community about how this policy would and should be implemented. The relevant policy, by its terms, plainly puts the onus on the "campuses" – here, UCLA – to ensure that student governments "maintain procedures and criteria" that are viewpoint neutral. See PACAOS Section 86.30. The policy does not place the responsibility on individual students such as Milan Chatterjee.

The deeply confusing nature of the situation – created by UCLA, not by Mr. Chatterjee – is demonstrated by the fact that last May, the GSA Forum censured Mr. Chatterjee, noting that he "created a policy for the GSA to remain neutral in all matters related to Palestine-Israel, [and that he] applied this policy as a stipulation for student funding." Now, Mr. Chatterjee is being censured by the DPO for *not* creating a policy that is neutral. Which is it? No one from the UCLA administration bothered to guide or inform Mr. Chatterjee or anyone else who asked. How then could it possibly be fair for Mr. Chatterjee to be censured in the DPO's Investigative Report when it is obvious that no one truly understood the viewpoint neutrality requirement because UCLA failed to explain or implement it?

Milan Chatterjee's Actions Cannot Be Said To Have Had A Negative Effect On Campus Climate

Second, it is crystal clear that Mr. Chatterjee was at all times acting in good faith. He knew from his experience as a student leader at UCLA that the BDS issue had created animosity, hostility and divisiveness on campus; his goal was to ensure that the GSA remained neutral on a topic that was deeply polarizing to the community, all of whose graduate student members he was bound to serve. It is frankly nonsensical that the DPO would actually conclude that Mr. Chatterjee's well-intentioned actions "made certain students – in particular, those who favored divestment – feel unwelcome and unable to express their political viewpoints." Perhaps such a conclusion could possibly be reached if Mr. Chatterjee had taken steps to allow anti-BDS viewpoints at the diversity event, while at the same time excluding those that support BDS against Israel. But that was not the case. While pro-BDS and anti-BDS groups could not be formally affiliated with the event's sponsors (the Diversity Caucus and the GSA), all of these groups were able to participate fully in the event. Like all the other participating organizations, they were given a table and the opportunity to network, pass out flyers, and meet other students and leaders. It is thus difficult, if not impossible, to fathom exactly how BDS supporters were marginalized or harmed in any way by Mr. Chatterjee's actions.

UCLA's Unjust Double Standard: The Complainant SJP is Itself Responsible for Creating A Hostile Campus Climate, But Has Never Been Held Accountable

Indeed, it is not lost on us who exactly is claiming to be the injured party: the SJP, of all groups. The SJP is the only registered, university-funded student group whose actions have deliberately targeted an ethnic minority at UCLA, and who routinely harasses, intimidates, threatens and seeks to silence Jewish and pro-Israel students on campus. This group has never

been disciplined or even publicly condemned for its actions, which have violated UCLA's rules against harassment and discrimination.

As just one of the many examples of the SJP's misconduct creating a hostile campus environment for Jewish and pro-Israel students, it was the SJP that demanded in 2014 that candidates for student government positions sign a statement pledging that they would not go on any trip to Israel sponsored by three Jewish organizations. Notably, SJP targeted only Israel and only Jewish organizations. Not a single church or mosque that pays for or sponsors Israel trips was singled out. Yet UCLA never sanctioned the SJP for violating UCLA's rules against harassment and discrimination. The group was never even so much as condemned for trying to bully and strong-arm students, and for its obvious attempt to keep Jewish and pro-Israel voices off of student government.

In 2015, members of the student council – who were active SJP members and proponents of an anti-Israel BDS resolution at UCLA – questioned a candidate's qualifications to serve on the UCLA Judicial Board simply because the candidate was Jewish and involved in the Jewish community. One of these council members asked the Jewish student, "Given that you are a Jewish student and very active in the Jewish community, how do you see yourself being able to maintain an unbiased view?" This was blatant anti-Semitism and another obvious attempt by the SJP to silence Jewish and pro-Israel voices. Yet to our knowledge, these student council members were not subjected to a disciplinary process nor were they even publicly criticized. Indeed, you simply referred to this incident as a "teaching moment" when it was so much more.

That these actions by the SJP and its members – which sowed hostility and divisiveness and engendered outright fear among Jewish students – resulted in some weak statements, while Mr. Chatterjee's good faith actions resulted in a finding of wrongdoing against him and the possibility of disciplinary action, is outrageous. We urge you to exercise leadership and ensure that the harm Mr. Chatterjee is being caused to suffer is righted to the extent possible.

All Violators of Confidentiality Should Be Held Accountable

We are particularly disturbed by information we received that the SJP leaked the DPO's Investigative Report, even though the Report was specifically marked as confidential and included the caution that the Report should not be used "in a manner intended to annoy, harass or retaliate against . . . anyone." Despite these directives, at least two UCLA representatives reportedly played a role in publicly commenting on the Investigative Report censuring Mr. Chatterjee. One of them, Vice Chancellor Kang, actually blogged about the confidential Investigative Report, noting – without any hint of a rebuke – that the confidential Report had already been leaked so that "[t]his means that right now, you can read every word of the report."

It is outrageous that UCLA officials -- including someone whose job is supposed to be dedicated to inclusiveness and equitable treatment for all – would have such callous disregard for how such comments would impact Milan Chatterjee. And it is deeply troubling that to our knowledge, the UCLA administration has not taken any steps to investigate who has violated confidentiality, in both letter and spirit, and to hold all wrongdoers accountable.

Request for Relief

For all these reasons, we urge you to take the following steps:

- (1) Investigate the breach of confidentiality of the Investigative Report and hold all wrongdoers – students, student groups, and UCLA professional staff – accountable;
- (2) Require the DPO to rescind its Investigation Report; and
- (3) Publicly exonerate Milan Chatterjee, apologize to him, and assure him that this ordeal for him is over.

Taking these steps will send the message to the UCLA community that student leaders cannot be targeted or censured for their good faith efforts to encourage a non-hostile campus environment. In addition, perhaps the SJP will start getting the message that its bullying tactics, directed against students who do not support the group's hateful and divisive agenda, will no longer be indulged by UCLA.

Thank you and looking forward to your response.

Respectfully,

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cc: Governor Jerry Brown
U.S. Senator Dianne Feinstein
U.S. Senator Barbara Boxer
U.S. Representative Ted Lieu
U.S. Representative Brad Sherman
Senator Marty Block, Chair of the CA Legislative Jewish Caucus
Members, CA Select Committee on Campus Climate
Janet Napolitano, UC President
UC Board of Regents
Mark G. Yudof, Chair, Academic Engagement Network
Eric Fingerhut, President, Hillel International

Chancellor Gene Block

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Tracy Turoff, Vice President and General Counsel, Hillel International

Stephen M. Greenberg, Chairman, Conference of Presidents of Major American Jewish Organizations

Malcolm I. Hoenlein, Executive Vice Chairman, Conference of Presidents of Major American Jewish Organizations