

From: michael@chwe.net
Subject: Re: Your inquiry about SMBPA payments to Dr. Carl Hammer

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To: sbb999@yahoo.com
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Dear Ms. Bennion,

Thank you very much for your reply, which supplies important information concerning the SMBPA's hiring of Dr. Carl Hammer after his felony conviction and dismissal from Santa Monica High School.

The simple fact, now substantiated in detail in your reply, is that the SMBPA has paid over seven thousand dollars to Dr. Hammer after his felony conviction on criminal charges involving a 14 year old girl. In my message to you, I did not claim that Dr. Hammer was an employee of the SMBPA. Dr. Hammer's qualifications and prices are also not at issue.

In my message, I claimed that these payments to Dr. Hammer invite questions of corruption, in which former colleagues arranged for an employee dismissed for criminal activity to be paid using alternative methods outside official or public oversight. The SMBPA's public acknowledgement of Dr. Hammer in football game announcements and field show programs is not evidence that the SMBPA publicly disclosed its financial relationship with Dr. Hammer; many parents who take pictures or help with uniforms, for example, are publicly acknowledged but do not have a financial relationship with the SMBPA.

To what extent did the SMBPA's payments to Dr. Hammer receive official or public oversight? Since the SMBPA is not part of the SMMUSD, it has no official oversight other than state and federal governments. In this regard, the SMBPA has been out of compliance. It has never filed 1099 forms for its independent contractors, in violation of Federal tax law. There have been no meetings of its board of directors, no minutes of its meetings, and no annual report, as required by its corporate status.

In terms of public oversight, the SMBPA is also severely lacking. Its board of directors includes five people whose names had not been revealed to the general membership until February 2009. One of these previously unrevealed people is Mr. Neil Hofland, chairman of the board of directors, who has held this position for 40 years. In an interview with Superintendent Tim Cuneo, Mr. Hofland agreed with the statement that the SMBPA is a "one man show." Current co-president Ms. Helen Weary did not know about Mr. Hofl and until this academic year. One member of the board of directors is vice president Ms. Jennifer Hammer, who is married to Dr. Hammer and thus oversees payments given to her husband.

It is unarguable that Dr. Hammer's former colleagues arranged for Dr. Hammer, who was dismissed from Santa Monica High School for a criminal felony conviction, to be paid using parent donations, through a school organization with very low standards of openness and public accountability.

Thank you for the information that the charges against Dr. Hammer were dropped in July 2008. I was aware that after serving probation, charges could be dropped against a criminal defendant, but I did not know that they had been dropped in Dr. Hammer's case. The Superior Court of California, County of Los Angeles web site shows that the charge of false imprisonment against Dr. Hammer was dropped on July 29, 2008 under section 1203.4 of the California Penal Code. I agree that this is an essential part of his case and should be included in any discussion of it. I have ordered the court transcripts of the July 29, 2008 court date and will share them to all involved in this

discussion.

However, Dr. Hammer's history remains. It is not defamatory or misleading to simply state the following facts, which are from newspaper articles and court transcripts. On August 6, 2004, Dr. Hammer was arrested and charged with two felony counts of lewd and lascivious acts involving a 14 year old girl (Santa Monica Daily Press, August 18, 2004). On June 21, 2005, the Superior Court of the State of California ordered that Dr. Hammer could not be around minors other than his own children without a responsible adult present until June 21, 2010 (transcript of June 21, 2005 court hearing, page 6). On June 21, 2005, Dr. Hammer gave a plea of no contest to a felony charge of false imprisonment (page 3). On July 15, 2005, Dr. Hammer was sentenced to 60 days of jail time and five years of probation. As part of his probation, he was ordered to cooperate in a plan for one year of sex therapy counseling through a licensed psychologist or psychiatrist (transcript of July 15, 2005 court hearing, page 25).

These documents are available at <http://lincolncommunity.googlepages.com/smdp081804a.pdf> and <http://lincolncommunity.googlepages.com/SA053426.pdf>.

This history remains and is relevant, for example in preventing Dr. Hammer from employment in the SMMUSD or other school districts, even for positions which do not involve student contact. It is relevant for SMMUSD parents who demand that the SMMUSD demonstrate the highest degree of commitment to the safety of their children, especially after the recent Beltran case revealed that existing SMMUSD policies to protect children from abuse were inadequate. School districts have higher standards concerning employees' criminal histories because the safety of children is a core value.

The issue is not Dr. Hammer's legal rehabilitation, which I respect, but the judgment of Santa Monica High School band director Mr. Terry Sakow and the officers of the SMBPA who decided to pay him thousands of dollars, years before the criminal charges were dropped in 2008.

I do not think any parent or educator involved with a school organization would choose, all other things being equal, to engage in a financial relationship involving thousands of dollars with a person who has served jail time for a crime involving a 14 year old girl, even after those charges were dropped after probation. The reason for this is that no school organization would want to support, tolerate, legitimize, or normalize even to the smallest degree criminal activity involving children.

In the case of Dr. Hammer, all other things were not equal. There was some other consideration which made Mr. Sakow and the SMBPA officers choose to enter into a financial relationship with Dr. Hammer. I would appreciate very much your opinion about what this other consideration was. This consideration was evidently more important than the SMMUSD's and the SMBPA's commitment to child safety. I do not think that Dr. Hammer's good value for money would be a consideration most parents would accept.

By hiring Dr. Hammer, did Mr. Sakow and the SMBPA demonstrate the highest possible commitment to the value of child safety? This is the central question, which your reply did not address.

In my opinion, the SMBPA's relationship with Dr. Hammer has distorted its values to such an extent that its commitment to child safety has been compromised in other ways. In November 2008, band parent Ms. Nealla Gordon and I asked the SMBPA co-presidents if the issue of criminal background checks of chaperones for the December 2008 London trip could be placed on the agenda of the November 17, 2008 SMBPA monthly meeting for general discussion. The SMBPA co-presidents refused this request, saying that the SMBPA would follow SMMUSD policy once it was adopted. That the SMBPA would refuse to even discuss this issue disturbed Ms. Gordon and me profoundly. After the meeting, one parent told me that there was resistance to openly discussing criminal background checks because of the SMBPA's "situation with Dr. Hammer." I think that any parent or educator would agree that discussions of safety issues like criminal background checks for chaperones should be based solely on the needs of our children, not on an organization's particular relationships with service providers or former colleagues. Even if only a single parent thinks that open discussions do not take place because of the

SMBPA's relationship with Dr. Hammer, this situation is intolerable.

In the November 18, 2008 public meeting of the SMMUSD Ad Hoc Committee on Child Abuse Policy, Asst. Superintendent Mike Matthews announced the immediate implementation of a new SMMUSD policy requiring fingerprinting and criminal background checks of school volunteers, including chaperones on overnight trips. At this meeting, you, speaking as SMBPA treasurer, adamantly argued that the chaperones for the London marching band trip should be specifically exempted from this policy. Without any evidence that any chaperone would be reluctant to submit to this policy, you said that if a chaperone did back out the SMMUSD should be responsible for paying that chaperone's travel deposit. You argued that criminal background checks were not necessary for the London chaperones because they had been "vetted" through personal experience with the SMBPA officers. Thus you were willing to favor the personal judgment of SMBPA officers over district policy.

On November 4, 2008, Santa Monica High School Principal Dr. Hugo Pedroza in a telephone call told me that Dr. Hammer would no longer be allowed to participate in the SMBPA in any way other than as a parent of a child in the band program. In other words, Dr. Hammer is barred from much more than just supplying the marching band's field show and arrangement, as mentioned in your reply. Recently Mr. Terry Sakow planned a prominent public role for Dr. Hammer in the upcoming SCSBOA band festival to be hosted at Santa Monica High School in April 2009. Dr. Pedroza disallowed this plan after a parent alerted him about it. Thus even after being issued clear instructions disallowing Dr. Hammer's participation in any way other than as a parent, Mr. Sakow attempted to get around them.

Finally, on November 5, 2008, I met very briefly with Mr. Sakow to discuss the hiring of Dr. Hammer. Mr. Sakow said that he was not qualified to discuss it, that he was "only the band director," and that he had understood that I had previously spoken with Dr. Pedroza. On February 18, 2009, Dr. Pedroza told me, in a meeting with a large group of Santa Monica High School parents, that he had never approved the hiring of Dr. Hammer. On March 1, 2009, I emailed Mr. Sakow asking him who made the decision to hire Dr. Hammer after his felony conviction and dismissal from Santa Monica High School. He has not yet responded. If the decision to hire Dr. Hammer and pay him with funds from parent donations funneled through the SMBPA is defensible, then Mr. Sakow should openly defend this decision.

Again, thank you very much for your reply. I would appreciate any further opinions or information you may have.

Sincerely yours,

Michael Chwe