

Witness: Allen (Eugene) Bottorff

Date: 10/3/18

Interviewers: Joey Burby, BCLP, Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Started at UCF October 2016 as Director of Downtown Campus. Currently in same position. Downtown campus has a core campus. Currently has new building project underway. Contracts had already been awarded when he started at UCF. Not clear on what funds are being used, but his understanding (after all of this) is that they are not E&G funds. His team is provided with a sheet that does not specify funding, but his understanding is project is fully funded.

Downtown Campus Infrastructure?

Bottorff did not know E&G funds were used for Downtown Campus Infrastructure project. Center for Emerging Media is also downtown. No one told him that two of his projects had been identified as potentially funded by E&G.

Understanding of State Funds?

In state college system, they used E&G funds and there was no identification of there being a concern of using those for capital projects. Started to look back into statutes and regs after all this came out and realized it was an issue.

Bottorff was not involved in meetings or discussions about source of funding for projects. Does not know who made the decision to use E&G funds for Downtown Campus Infrastructure or Center for Emerging Media projects.

Works with Lashonda Brown (business officer for facilities and safety side). She has been the one to push back if there is an issue with expenses, etc, but not much beyond that.

Downtown Campus Infrastructure and Center for Emerging Media were both approved by board through CIP process. They were put on the CIP list. Did not go through Facilities Budget Committee process because was done prior to establishment of that committee.

CIP list delineates PECO and "other state funds". They requested funding, but legislature did not approve it.

For Academic Commons Building, he understands funding is coming from \$20M PECO, \$20M UCF, \$20M fund raising.

In his history, he has always had a divider between facilities and finance. They are heavily involved in asking for PECO funds but beyond that his group is not involved in discussion of fund sources. He was surprised there wasn't a more robust plan for asking for funds when he got here.

He has helped prepare CIP lists for FBC and help determine UCF's priorities. Projects remain on the CIP list until it is complete. Until project is complete, there is always a hope that the state will contribute funds so it stays on the list in the hope it will become an LBR (legislative budget request) and the alternative funds could then be freed up.

For Downtown Campus Infrastructure and Center for Emerging Media he knew it wasn't PECO funds, but did not know the source. By the time he joined UCF, funds were already approved.

Recently found out that infrastructure dollars have never been on CIP lists or infrastructure dollars. So will go as agenda item to board on friday for approval.

TCH?

Was building official for TCH (when prior official left) so was involved in permitting, but no discussion of funding. No discussion about funding, but general surprise around his office when everyone found out that E&G funds could not be used.

It would surprise him if Kernek did not know E&G funds should not have been used. "If Bill Merck knew, then Lee should know." It is something Bortoff would have wanted to know if he was in her role.

No discussions with Merck about UCF funding source.

Has heard Lashonda and Gina discuss that they did not know how to even find out source of funds she was getting.

Lashonda should know what is PECO, but anything else he doesn't think she has the ability to tell where the source is from.

Witness: Ken Bradley

Date: 11/15/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Bradley was appointed to the Board by the governor in February 2016. He is on the Audit & Compliance, Education & Programs, and Advancement Committees.

Understanding of types of funds prior to April 1, 2018:

Mr. Bradley did not have an understanding of specific types of funds. In his prior roles, he is aware that capital funds and operating funds are separated. He was aware of the process of requesting funds for major capital projects. He did not know the specific details of how "monies could be rolled over or not." Mr. Bradley's understanding of carryforward was "loose." He understood there could be multi-year projects where allocated funds could be carried forward. Mr. Bradley acknowledged that fund accounting is not an area he understands as well as he should. He was not aware of any stipulations or restrictions on carryforward funds. Mr. Bradley was aware of non-PECO funding sources that could be used for capital projects like specific state-appropriations or donations.

Board Orientation Process:

In February of 2016, Mr. Bradley had an "excellent" orientation. Trustee Walsh attended as well. It was a half-day orientation, but Mr. Bradley "would never suggest it was exhaustive." He does not recall having any specific orientation on any specific uses of funds. Bill Merck was there "or there were representatives from his office that were there?"

Bill Merck

Mr. Bradley knew each other well and knew each other socially at UCF events. They would often find themselves conversing at an event with their wives. Mr. Bradley felt like he had a very good working relationship with Mr. Merck. Mr. Bradley has met with individual staff in advance of BOT or committee meetings. This was a common practice on major capital projects and other things that may be "delicate" that could be perceived as controversial or requiring more background information.

Mr. Bradley understands projects over \$2M required Board approval. The Board approved various capital project reports, including the CIP. Mr. Bradley often felt UCF asked for more than they expected to get. When approving the capital projects, Mr. Bradley does not source of funds presented for approval.

TCH:

Mr. Bradley remembers the first decision he made around TCH/CH in summer in 2016. He recalls pictures of the building and discussion about rehabbing it. Ultimately, he remembers they approved to demolish the building because of the significance of that process and his familiarity with that process in other contexts. Because the project had already been funded at that time, he was focused the best use of the money.

Mr. Bradley learned about the misuse of funds for TCH when Scott Cole called him and informed him of the upcoming emergency board meeting.

Mr. Bradley has not spoken to Bill Merck, Dale Whittaker or anyone in Finance or Facilities about the misuse of funds. Mr. Bradley has spoken with Dr. Whittaker privately to encourage him and commend him for his work in handling the issue.

Meeting Materials

7/28/2016 BOT Meeting

Mr. Bradley does not recall any specific discussion at this meeting about CH or TCH. If a project was under PECO, he understood that the project would be state-funded. Mr. Bradley understood the PECO projects under the capital outlay budget where state funded as well. Mr. Bradley does not recall a specific conversation around the BOB-2 when the CIP came before the Board.

Mr. Bradley is not familiar with the Trevor Colbourn Hall Building Program and does not recall having seen it before. "University funding" (p. 57) does not trigger any specific type of funds. He would not be able to translate what "university funding " means.

Other thoughts?

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Nobody used the word "sick building," but it did not take too many pictures for Mr. Bradley to understand this was a crisis. He thinks the circumstances "got the best of good people."

Witness: LaShanda Brown-Neal

Date: 10/4/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

She began at UCF in 2007 as a construction accountant in facilities, planning and construction. This is within the facilities business offices although they didn't have a facilities business office when she started (it began in 2008). FPC was not included on the org chart where the FBO is currently. FPC was a unit within facilities and safety. When resource management was formed, FBO moved under it. She became assistant director in 2012. Her current position is associate director. She moved into that role in 2014. She currently reports to Montell who reports to Lee.

Nester Garcia, Trina, Rens, etc. on org chart currently do business accounting in the FBO. Lashanda began in the equivalent of Nester's job.

Gina Seabrook oversees the beginning stages of projects on the conceptual budget, not the actual physical dollars. She determines pre-costs for the projects.

In her office there has always been an understanding of a \$2M and above cap for new buildings is a major project. Less than \$2M is a minor project.

Standard Process? → the PECO process

FPC and Gina will submit a building program and request PECO or some type of funding from state for major projects. Once the process is vetted and they are awarded state appropriated funds. They will get a 442 report or an appropriation letter. They do a 352 form to do an encumbrance authorization and then the process of selecting contractors can begin. Once contracts are awarded, project is created in finance and accounting. F&A gets that direction from the documents. Then Lashonda's team goes in to encumber those contracts and they monitor the pay applications to make sure the funds requested are in compliance with written construction contract.

For PECO, there is a budget authority, but the cash is drawn down from the state every month from the state. Meghan Nelson manages this process.

When the money comes over Lashonda's office does not see the source of the funds unless the drill down to that level of detail.

Minor Projects?

Her team would go from FPC request and send that over to Meghan Nelson. They would provide the funding number, total project cost, etc (project package) to Meghan. Meghan Nelson creates the project, sends that to Lashonda's team who initiates the transfer. As long as the end user in the department and the project manager in facilities approves the spending, that is sufficient documentation. Journals are established in Peoplesoft and once it is approved and posted the budget is created and can start to paying contracts from it.

Majors must have an individual contract written with additional layer of approval requiring the president's signature.

Minor Project?

Minors have a continuing service contract, blanket contract where they can write individual POs for smaller projects. president signs many minors, but not all.

Her office never decides on source of funds. They are always being told the source from Meghan or someone else.

Your understanding of E&G?

Before, she thought carryforward E&G could be used for renovations of any amount and new construction of any amount. She didn't really understand there would be any restriction on any funds as far as the scope of work her office handled.

AG Audit?

The request from the auditor came through to provide the source of the funds, Lashanda told Gina that needed to come from F&A. She became aware of the issue when the auditor asked "where does it say you can use E&G funds" for these project.

Reactions to the news?

Lee mentioned to Lashanda that she found out that they couldn't use university E&G reserves for construction. Lashanda got the impression that Lee did not know this before. Lashonda asked Gina if she knew. Gina said she had no clue.

TCH?

There were several project managers for TCH. One was Norman (Trey) Beck.

Nester Garcia is a person from her team who would have been directly involved in executing transfers related to TCH.

Witness: Angie Carloss

Date: 9/27/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

started dec 2014 supporting merck. merck hired her. directly assisted him and only him. been with UCF 4 years since December in same essential role the whole time although title changed. supported VP for admin & finance. calendaring, tracking emails, signatures needed, letters, filing. has grown her role a bit since she started doing other things like records management, other things she could get involved in. his emails were forwarded to her. could respond, send emails on his behalf. would send from forwarded copy that she would have.

she would attend some meetings as well as schedule meetings, some at global ucf. early on attended more meetings trying to let people know who she was. less so when they hired project manager (Kay-elyse green, now a new person in that role as avp Elizabeth Hamilton?). always attended lee kernek's standing meetings. different types of standing meetings with associate VPs. all together and also individual one on ones with merck and individual avp.

bog jr meetings were scheduled out of provost office, angie didn't schedule them. weren't on regular days, kind of moved around. over past few years were twice a month at most. not many meetings before 9am so not sure if they were at 7. clark, tant, provost, merck, possibly one or two others. meeting makers didn't come with agenda. a lot of it was programmed with Christy and tracy. angie never went to those, she most went to smaller working group committee meetings.

avp direct reports with her and bill were monthly. no agenda, just get together about "here's what's going on at the university".

merck talked to angie about issues, things going on that he was dealing with.

your understanding of types of state funds?

has general understanding, knows names of funds, couldn't tell you how those are used. peco, E&G, CITF, maybe another one. knows eg=education & general, peco is something to do with capital. didn't know anything about restrictions on uses. didn't talk much about use of funds or other things she didn't think she would be any use for because "I'm not a financial person".

doesn't have anything about TCH regarding funding, only had a few things on old colbourn hall. emails from people complaining about conditions. didn't keep everything from bill because slows down system. she filed the things that she kept.

she mostly discussed personnel issues, strategic thinking about who to include on things.

anyone particularly close to bill?

Bill was friendly with everyone, not particularly close to lee more so than anyone.

merck had standing meetings with Hitt. sandy sherepow would just let angie know when the meetings were. thinks they were monthly. or were scheduled twice a month and would happen when they could. she didn't to any agendas, bill would write is own notes about the meeting. bill was not a note taker.

how did he keep track of everything?

he has a computer, he was really good at keeping a lot of things in his head.

project manager role?

they called it bandwidth expander who would go to a meeting that he couldn't go they would go in his place. kayealese green. left July 2018 to go to medical school. there was crossover between her and the new avp.

state ag audit that started in may?

doesn't think she was aware of it. she edited things for merck all the time but doesn't remember editing anything for state ag office.

(financial audits are every year, operations are every 3 years)

angie helped prepare document about TCH > Elisabeth worked more on it (this is the Q&A red and white doc). mostly GC was involved in preparing that. she did not answer the questions. merck was on vacation for a little, that document may have been done right after he left for vacation.

Merck never seemed nervous. not completely unflappable but was very even.

there was a request for what happened, and he wrote it out in a document that angie helped edit and gave it over to gc, not sure if it was in print or email. she still has the final version of the document.

Elisabeth hamilton is avp who => replaced kayealese

she simply edited the document, didn't really engage in the material. didn't engage with merck substantively on the document.

there is a board ipad just for board documents

merck had a desktop computer that IT has now

merck had a smartphone, was reimbursed from university, he took device with him when he left because he bought it.

texted for work related reasons sometimes

hasn't talked with clark, kernek, about the issue in any one on one discussion

people have been calling her to check how she is doing bc experience is so jarring for her

discussion with merck

merck had conversations with people in the office after he came back from vacation and had conversation with president, merck got back Wednesday after labor day. met with president and then let angie know he would be retiring before the end of the year. let her know the funds were used and that it was an issue and the old colbourn had been in really bad shape and that he felt like they needed to do something about it and that people who analyzed the building said people were going to get very sick. didn't say who else was involved in the decision. that it was a decision that he made. was ultimately his decision. acknowledged funds were miss used but explained why it had to be done. this was a one and one conversation in his office. this was probably that Wednesday when he came back.

didn't have another discussion that he was going to be leaving immediately. but she watched the BOG meeting and knows how it went.

no discussions with tant about this.

anything else?

funding piece is very much a clark, tant. would think of lee more for what is going into building, program, etc.

merck's office didn't keep many documents, they would generally just ask for final versions of stuff from avps and get it from them.

has talked to bill one time to say hello since everything, maybe last week

angie gets reimbursed for her personal device.

END: 3:30

Witness: Dr. Diane Chase

Date: Friday, November 9, 2018 (11 am - 12 pm EST)

Interviewers: Joey Burby, BCLP; Michelle Davis, PWC; and Sakinah Jones, BCLP.

This interview was conducted via telephone conference.

Mr. Burby introduced himself, Ms. Jones and Mr. Davis and provided the Upjohn warning

Background

Dr. Chase began at UCF in 1984. She became a fellow in the Provost's office in 1998 to 99. Moved to Academic Affairs. She became Professor in 1995. Her first administrative position was in 2000?? Immediately prior to being interim Provost, from 2010-2014 she was Executive Vice-Provost of Academic Affairs. Her role was very typical "academic things." She reported to Tony Waldrop before he left. She became interim Provost in April 2015 through August 2014. She returned to being Executive Vice-Provost. There was a reorganization in March and her role change a little, however was still academic.

Dr. Chase was interim provost for four months. CH had been a discussion item for along time prior to her tenure and continued after she left.

Mr. Waldrop brought Dr. Chase to one or two budget chats before he left so that she would know what they were about, but she was not a regular participant.

She remembers budget chats were pretty informal and occurred once a week. Her understanding of her role was that the Provost was there to voice the academic priorities of UCF during those meetings. She recalls details on academic priorities, but Colbourn Hall was not her area. "It was there before I got there and it was there after I left."

Before she became intermin provost, something went to the board about Colbourn. They had been looking at Colbourn Hall because it was one of the oldest buildings on campus. for various reasons, the building was "not a great home" for the faculty that were using it. She recalls mold, possibly asbestos. At one point they considered renovating it. Prior to her tenure as interim provost, the decision had been made that it was more cost effective to build a new building and then renovated the old. She suspects she would have attended the FFC meeting if she could, particularly if the committee meetings occurred the same day as the full BOT meeting. On those days, she would go and sit all day. Even if the committee meetings were on a different day she would attend if she could.

Looking back, she came into the role and there were a number of things that were listed as E&G. Today, she would probably ask more questions than she did at the time she was interim provost. She does not

recall anything tricky or outside of board policy. They were looking at the reserves that had accumulated since the recession and assumed it was an appropriate expense. Looking at the documents now, she is looking at them differently than she did at the time. During the budget chat meetings, the discussion was about potential uses of money, not definite uses of money. There were a lot of different analyses going on about how money could be spent. She did not have a clear understand of university reserves and E&G funds at the time. She focused on academic expenditures. She recalls during the meetings that they were talking about reserves and spending reserves. She has no idea what the transfer accounts are (Tab 1, April 30, 2014).

Dr. Chase does not recall Bill Merck saying "audit comment." Mr. Merck was really "good" about meeting university needs.

Tab 1 and Tab 3 meetings: Dr. Chase has no specific recollections of the two budget chat meetings referred to. She understood that the amount needed for Colbourn increased over time. Bill Merck and Lee Kernek would have been involved in decisions around costs for Colbourn Hall. Lee Kernek did not attend the budget chats.

Tab 7 1/21/2015 email from Dale to Diane and others.

Dr. Chase believes the discussion would not have been about budget, instead it would have been about who would occupy the building, how much space did they need. During her interim provost role, Dr. Chase was the one who would contact the departments about what their needs would be when moving into TCH. Others would have followed up on that initial request. The conversations weren't about money, they were about space. Dr. Chase remembers Bill Merck talking about the cost savings of doing both TCH and CH projects together.

The last email (Tab 8 and 9 January 22, 2014 meeting in Lee's office), she believes there was a little bit of a "kerfuffle" among the deans about space allocation. Several were looking for more space in the new building than they originally thought.

Dr. Chase does not recall Mr. Merck or anyone suggesting this would have raised red flags. Dr. Chase would have remembered if someone had said that this would have raised red flags.

Dr. Chase left UCF in April of 2016.

Dr. Chase believes it was Lee that shared pictures of existing Colbourn Hall looked like and that things were not in good ship. There were no specific conversations with Lee regarding CH or TCH outside of at a board meeting saying hello or other similar circumstances.

There is really no way for the Provost to know the amount of money needed for a building without the CFO being involved. It is more a question of priorities at that point.

Dr. Chase did not have an awareness of the \$2M threshold regarding use of E&G funds for renovation rather than construction.

Interview with Sandy Cherepow (10/4/2018, 2:20pm-2:50pm)

Witness: Sandy Cherepow

Date: 10/4/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Worked for UCF for 47 years. Has worked for Hitt for 15 years starting around 2003. Started as a temporary position when his prior assistant went out on maternity leave. Sandy's prior boss retired. Hitt asked Sandy to stay and she agreed. Her title was Senior Administrative Assistant to the President

Structure of Hitt's office?

Chief of staff was Beth Barnes when Sandy started and was succeeded by Rick Schell. Front desk: Susan Laden, Gloria; Jackie Young, Business Manager (handled Hitt's travel, subscriptions, out of town conference, reimbursement); Heather Simian (handled personnel, later became young's supervisor, role was in the financial area). Cindy Hawks, Amy Swindford, Ryan ???, speech writer was Joe Adams, Nancy Marshall supervised BOT materials (Amy and Cindy assisted with those).

Hitt's Calendar & Meetings?

Sandy maintained Hitt's calendar, she would provide calendar and paperwork associated with meetings the night before so he could review next day. Did not centrally store these materials. Most of his meetings were with VPs. He kept his notes on yellow note pads that he kept in a rolling file folder under his desk. No way to go back to look at agenda/notes/materials for meetings.

Hitt had standing meetings with Merck. VPs met biweekly (typically 9-12, no agenda). On alternate weeks President's advisory staff met biweekly (VPs plus deans, directors). Hitt did not meet any more regularly with Merck than other VPs. Nothing stood out to say that they were meeting a lot.

Merck is very "chummy."

TCH?

She knows the terms related to colors of money but did not get involved in it. Did not have any conversations about issues with Colbourn Hall or health of the building. She did not know Colbourn Hall was unsafe although she knew there were discussions of renovations.

Filing System?

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For materials came through Hitt's office, they would log things in at the front desk and record when it was signed and where it was returned to.

Hitt would provide things to Sandy that needed to be distributed to others.

Some materials would go into the project file.

Cindy Hawks still works for Hitt. His current position is

Witness: Tracy Clark

Date: 9/27/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Need background, responsibilities

During Christina Tant's entire tenure as an employee of UCF, she has reported to Tracy Clark. When Clark's role split to report to Dale Whittaker (in addition to already reporting to Bill Merck), Clark transitioned her controller responsibilities to Tant because Clark was often out of the office handling other responsibilities.

Types of funds and limits on uses?

State funding includes PECO, E&G state appropriations (education and general), infrastructure, repair remodeling & renovation, deferred maintenance, and plant operation & maintenance. E&G funds are used for "education, research, and public service" or "instruction, research, and public service." There is a "base level" of appropriations and each year an allocation document is issued which reflects pluses or minuses to that base to determine the actual appropriates for that year.

E&G funds are made up of state appropriations, tuition, and student fees. This money is allocated through the budget process.

Carryforward E&G funds are leftover funds that were not spent in the year they were allocated, instead they rollover to the next year. E&G funds include state appropriations, tuition, and fees. The restrictions/limitations on funds do not change when funds roll over to carryforward. Clark's office submits a report to the BOG stating the planned use of carryforward funds. The state universities developed a standard template that all schools use for this report. The plan to spend carryforward funds on a new building (construction of TCH) was not identified on this report.

When asked what the source of authority that dictates how funds can be used, Clark said she has never received any materials that specified restrictions on "pots of money." She just learned on the job about the different types of funds. She does not recall where she learned that E&G funds cannot be used for capital projects. She compared it to the idea that it is just common knowledge that state funds cannot be used to buy alcohol.

Budget Process

All funds flow through Clark's office. The budget office allocates funds to various areas. Different types of capital funding came through Clark's office including PECO, infrastructure, repair remodeling & renovation, deferred maintenance, plant operation & maintenance. Clark calls all of these "capital" funds because they were for the use of facility activities. Clark did not know that some of these actually E&G funds. Clark acknowledged it would be more accurate to refer to them as facilities funds because the funds were for the facilities department to "do what they needed to do."

Clark understands the "infrastructure" category of funds to include roads, plants, piping for buildings.

Clark's office has had hardly any involvement with the capital budget, which was instead managed by President Hitt, Bill Merck and Lee Kernek (Facilities & Planning).

Clark's office was, however, heavily involved in the operational budget and was responsible for presenting the budget to the BOT, managing the budget, and reconciling the budget to cash.

UCF had a budget committee some time prior to Clark starting at UCF, however the committee was disbanded at some point. When Clark started at UCF, there was no formal budget process and she was not involved in the informal decisions or process regarding budget.

Clark understood (Vanessa told her) that Merck and Hickey managed the budget after committee was disbanded. During that time, the budget was approved by Merck, Vanessa, Hitt, the provost (which was either Terry Hickey (thru June 2010), Tony Waldrop, Diane Chase (interim), or Dale Whittaker), and Lynn Gonzalez.

These meetings are referred to as "budget chats." Budget chat attendees were collectively referred to as the Budget Operations Group (or BOG Jr). When Vanessa knew she was leaving, she invited Clark to attend the budget chats. After Vanessa left (in March 2013), Clark began to bring Christy Tant to the budget chats. Other budget chat attendees: Lynn Gonzalez, Megan Diehl, the provost, Merck.

In one of the meetings when Diane Chase was interim provost, there's an email from Christy back to group (Chase, Megan Diehl, Merck, Tracy) attaching the E&G commitments list and adding what was decided in that meeting which included an additional \$18M for Colbourn Hall. This may have been in July 2014. This was right after board approved new construction. It was "on top of" the prior \$10M.

Hitt, Merck, and the provost made budget decisions about the E&G commitment list, although everything was ultimately approved by the president (Hitt). The document was really just to track the commitments.

There was also an E&G commitments list that tracked commitments against central E&G funds (carryforward E&G funds). Lynn Gonzalez and Vanessa Fortier may have started the central E&G commitment list.

The University Budget Committee (UBC) was formed in November 2014 or January 2015. They try to have representation from across the university on the UBC to make sure resource allocation goes through a fair process, instead of the old way which was just an email to Merck, Hitt, or Whittaker.

The Facilities Budget Committee (FBC) started in January 2017. Tracy felt like UCF needed the FBC but there was pushback from Merck and Kernek because Tracy was "stepping into Kernek's office." The FBC comes up with the internal capital plan.

Evolution of TCH and funds used to pay for it?

Colbourn was first added to the E&G commitment list (the one that is submitted to the BOG) as far back as Jan 2013. (Clark has seen the list.) Initially Colbourn was listed for on the commitment list for \$8m to renovate it. The cost renovation cost increased to \$10m and in 2013 the budget office allocated that amount out to a construction project over in facilities. (A construction project is just project number in the general ledger.) Clark doesn't know why renovations did not begin immediately after the request for funds were budgeted.

It would be permissible to use \$8m or \$10m to renovate a building from E&G funds because it was considered deferred maintenance. Clark doesn't recall if using E&G funds to renovate a building raised any red flags for her at the time. She does recall it raised a red flag when Colbourn moved from deferred maintenance to construction of a new building (TCH).

Clark attended both the April 3, 2014 Finance & Facilities Committee meeting and the May 22, 2014 full BOT meeting. She would have sat next to Merck whether or not she had any items to present on the agenda. Merck never missed a BOT meeting. Various agenda items were presented at the BOT meetings. Some were hers some were not.

Regarding the 4/3/14 F&F meeting, Clark doesn't remember anything more than what she sees in minutes. She doesn't recall if they discussed the source of funds or when the BOG Jr added TCH to the commitments list. "Budget chats" = BOG Jr.

Prior to March 2016, the amount changed again from \$26m-\$38M. Prior to the June 2016 transfer, Merck emailed Tracy about a conversation between Wittaker and Hit to move forward with the increased amount specifically for TCH. This email was used as the approval to allocate the next \$10M

At one point there was a cost conversation about the timing of renovations to strategize saving money. But ultimately this strategy was not relevant because they decided to raze

When was it clear Merck was going to direct you all to use E&G funds?

Clark does not recall when Merck directed them to use E&G funds. However, she knows when Colbourn moved from being a renovation to new building, she informed Merck that a new building was not an appropriate use of E&G funds.

Merck didn't think he had any other alternative and he said he would "take an audit comment" for it. He continued to say that in open forums. He said he "had a sick building and there was nothing else he could do." They get "audit comments" on every operational audit. An audit comment may say state procedures were not followed or that an internal UCF manual was not followed or that particular controls are not proper. She view this remark from Merck to mean that an audit comment was not a severe consequence and that Merck did not "see it as a big deal." Merck portrayed it as an evaluation of risk that he was willing to take. Tracy thinks Merck had the authority to make that decision.

Merck made the comment in many forums including budget chat meetings, meetings with Hitt. Although she does not recall specific circumstances, she "knows it was said a number of times." Tracy does not recall if he made the comment in from of BOT or at BOT committee meetings. As recently as a few weeks ago, Merck justified the decision by explaining that it started off as a renovation, there were "extenuating circumstances" regarding the building, and the health of the occupants was at risk,

Tracy does not recall getting nervous about Merck's decision or explanation. She was ok with Merck's explanation because "this was the culture of how things were done." She viewed herself as a support person while Merck was the CFO with 25-30 years of experience in higher education. At the time she didn't do any research to understand seriousness of Merck's decision.

Who else knew?

Tracy thinks the provost and president were aware E&G funds would be used for TCH based on the allocation documents that they signed, the E&G commitments list, and decisions made by those executives to add/change numbers in those documents.

Tracy recalls a meeting where summary was put together showing funds use for Colbourn and TCH. The summary was sent to Whittaker and Merck prior to the meeting that was held that same day. Tracy remembers Merck telling Hitt that using the funds might "pull audit comment" but he still felt like it was the right decision to make. Merck said something to the effect of "what else are we going to do." She doesn't recall who else was in that meeting other than Merck , Hitt, possibly the provost (Whittaker at that time).

Tracy found a March 2016 email sent to Merck and Whittaker in preparation I preparation for a meeting. The email came with a very short one page summary spreadsheet attached that was a tracking list of funded and unfunded projects, along with investment earnings, facilities, & E&G funds. She is unsure of whether she attended the meeting.

There are many documents where Tracy's group noted E&G as the fund source for the construction of

TCH. All of these documents were shared with the executives who were involved in the process..

Tracy has not talked to Whittaker about the “use of E&G funds for TCH ever.” She only talked to him about processes. Tracy did not clearly answer whether she thought Whittaker knew improper funds were used to construct TCH prior to the story becoming public. She “thinks he could” have known, but can’t “speak to his knowledge.”

Culture of UCF Staff/Administration

Tracy has not been in many meetings with Hitt, maybe 6 total during her time with UCF. Occasionally she was pulled into a meeting with him simply because she was nearby but was not formally invited to the meeting. Her understanding was that “there was no questioning Hitt’s authority.” Tracy did not contact compliance or audit because the tone was that the consequences of using the funds did not outweigh the decision to do it. She sensed there was a comfort level from the executives and felt that if they were worried then it must have been ok. There was a tone of acceptability about the decision. No one was questioning the decision although the decision was brought up in many environments. Tracy felt that if she challenged Merck she “wouldn’t have felt like her career could have survived” at UCF. Tracy’s office did not do anything from a budget perspective unless one of those three (Merck, Hitt, Provost Whittaker) approved it. The authority was in that group and that group was accepting this decision as the “way forward.”

Merck didn’t rule with iron fist, he was a “super nice guy.” He always got things done one way or another in a non-confrontational way. He had passion for 3 areas: construction, police and safety, and sustainability. He didn’t have a passion for finance. Merck was not a typical CFO. He didn’t care about fiscal controls or process. It wasn’t as extreme as “be damned,” he just wasn’t interested in following any process. He was a “pillar at the institution.” Everybody went to Merck for anything financial and “it got pushed down.” Things changed when Whittaker became Provost. Beginning around 3.5 years ago, they started to put processes in place. Whittaker is much more of a process person than Merck. When they started to put deliberate processes in place and changing the unilateral decision-making way of doing things, it was “going up against Merck.” Until Tracy had the support of working for Whittaker, she didn’t feel like she could challenge the way things were being done.

AG Audit

An audit request came to Tracy’s office from Jeff Brizindine asking for the source of funds for 3 buildings (TCH, the Research Building (Research I?), and a third project that is not on Kathy’s table but E&G funds were not used to pay for it. Tracy worked with Christy to prepare answers to the AG audit request. They responded that E&G funds were used for TCH. Either Tracy or Christy notified Merck (verbally or by email) that the auditor general had requested that information. Again he explained that because of surrounding circumstances (started as renovation, had sick building, had no other choice).

As the audit was going on, there was no real clear assurance that they would get an audit comment as a result of the process so there was no discussion about preparing a defense to the misuse of funds. Tracy was not sure if it ultimately it would be seen as something that was justifiable considering the issues with old Colbourn hall.

Tracy has not recently looked through the email responses her office provided to the state AG although it is possible Merck may have gone back and reviewed some of them. The responses to the state AG included a schedule showing the funds that were used and narrative responses to any other follow-up questions they had which included the explanation of the health concerns with old Colbourn Hall.

Tracy attended the AG audit exit interview where Merck said he made the decision because he considered it “deferred maintenance” and that he was concerned about health and safety of people in the old building.

Tracy does not recall the state AG office asking about how buildings were funded prior to these inquiries.

Funds Use Report

The funds use report shows UCF’s planned spending of carryforward funds and goes to the BOG as a part of the operations budget submission. This report has a line for “infrastructure, deferred maintenance, utilities” where a total number was listed not broken down by project. Tracy’s office decided to list TCH construction costs in this category. Tracy, Christy, or Vanessa Fortier would have approved the final report before it was submitted. She knew that the component of that number that was for TCH construction was not actually “infrastructure, deferred maintenance, utilities” but she thought it was ok to include TCH construction cost there because the project originally started out as deferred maintenance of old Colbourn Hall. This was the best category to fit that amount into after the decision was made to use those funds for the construction of TCH. Someone in Tracy’s office would have prepared the actual report and Tracy does not recall any discussion with anyone about where to list it. The amount came from the E&G central commitments list and her office would then fit that amount into the available categories on the funds use report. Merck did not see or approve the funds use report.

Band building?

The Band Building did not start out as a renovation and Tracy was not aware that E&G funds were used it. She knew they were putting together funding for band building and that Merck, Lee Kernek, and the college or arts and humanities were going to contribute funds. Nobody in Tracy’s office was involved in making decision for the Band Building. Of the money that was coming from the university, her office would process budget transfer and someone in budget office would push it through. Nothing came from central funds for the Band Building. Tracy did not talk to Merck about the Band Building and she did not know that E&G funds had been used for it until after Bill was gone.

The funds that Merck contributed to the Band Building would have been his division level funds that had not been allocated down to operational units yet.

Showroom and Postal Hub?

Tracy was not aware of the funding for the showroom and postal hub because there were funded by facilities. The Band building, showroom, or the postal hub would not have been discussed in the meetings Tracy has referred to because the commitment list traced central resources.

Research Building?

Tracy thought furniture and fixtures and lab buildout could be funded from any source, including E&G funds. When they were trying to get units to contribute to their share of costs for the research building, her letter to the units said that the units could pay for it with their startup, E&G, CG (contract & grant), or auxiliary funds. \$3M of \$47M was central E&G funds.

Her office had always heard from Merck and facilities (Lee's office) that furniture ,fixtures, and buildout could be funded from E&G funds. There was no internal discussion about whether this was actually ok, it was just Tracy's understanding.

Tracy does not have a university issued phone, but gets phone allowance for it.

Joey reiterated litigation hold memo preservation request.

Witness: Tracy Clark (with counsel: Todd)

Date: 10/25/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG; Julie Chara, PWC.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Joey explained that our goal is to understand what happened and present those findings to the BOT.

Joey explained that we will go through the binders we have prepared beginning with the emails Tracy and Christy identified.

Tab 1: Feb 15, 2013

Joey reviewed some of our discussion with Christy, that the carryforward report is the fund balance composition report. They often are asked to do an update. Joey went through the email asked why they would remove funds they were planning to use for that purpose.

Tracy explained because it was a midyear report and the planned expenses against it took the balance to negative. It is difficult to get a true midyear carryforward balance because it does not account for the incoming carryforward that is expected to accrue.

At this point CH was just a renovation. Tracy began having concerns when the project became a new building.

Tab 2: Aug 22, 2013

This email reflects a single point in time, but the E&G Commitments list is a rolling document that is maintained through the year. The E&G Commitments list is not submitted to the BOG or BOT, it is used internally. The email refers to the 13-14 allocation document which indicates that the president and provost authorized \$8M of E&G for CH. Allocation document is signed in person, face-to-face, not a set meeting really, attendees varied at the meeting to sign the allocation document. Tracy did not attend these meetings when Tony Waldrop was provost, but attended most of them when Dale Whittaker was provost.

This email directs a budget transfer from central to a department in facilities, then facilities may do cash transfers to a project. John Pittman requested this transfer in his role at the time a Budget Director. It would surprise Tracy if John did not know that E&G funds could not be used for construction because of his role at this time and because he received many documents that clearly indicated the use of E&G for TC.

Tab 3: April 16, 2014 email

There was another email where Christy said "per this morning's conversation, attaching revised showing \$13M has been changed to \$18M."

Joey asked about the 4/3/2014 FFC meeting. Tracy said she attended because she presented a financial item that is on the agenda. She does not recall any discussion of the funding at the meeting or any reference to the E&G commitments list attached to this email.

The E&G Commitments list was important information for budget chats. Copies were always included and used at the meeting. This was a small group of 4 or 5 people around a small table talking for an hour every 2 weeks.

Tracy thinks the CFO and the Provost made budget decisions. Those two may have taken items to the president, however Tracy's team looked to the CFO or the Provost for approval, they did not wait on the president for approval. The capital planning process was not typically discussed in budget chats. Projects that were not approved by state might come up in budget chats, but not always. If things were not approved year after year and because critical or if there was someone complaining about a significant need, those things may come up in the budget chats.

It is possible for the state to give a non-recurring E&G allocation so that they can evaluate whether to fund that need the next year. An example of that is for the Lake Nona incubator. The items under E in the grey on the allocation document are coming from central carryforward, not non-recurring E&G state allocations.

Tab 4-5:

Joey does not think there is much to discuss here. He gave Tracy time to look and review whether there was additional items to discuss. She agreed no.

Tab 6: Apr 30, 2014

Joey reviewed the email that \$8M had been allocated and that was increased to \$10M.

Tracy does not remember the specific meeting where this increase was approved. It could have been decided at a budget meeting without additional approval, it would not have needed additional approval from President Hitt. When items are allocated out (through the allocation document) it "falls off" of the E&G Commitments list.

Joey directed Tracy to look at the 5/22/2014 BOT Meeting materials. The consent agenda are approval items which means without discussion although they do vote and approve the consent agenda items but

this is done as a single group approval of all consent items. A trustee may move an item from consent to the (other?) agenda where the item would be discussed and voted on individually. The "non-recurring" funds on the resolution item at p. 031 in the meeting materials means carryforward funds. This may be influenced by her current understand of everything considering recent events. At the full board meetings only the board members are really at the table, although the president is here as well. At the committee meetings there is more interaction with the staff. Staff may be called on at a full BOT meeting.

Joey directed Tracy to the Global UCF content in this same 5/22/2014 meeting. Tracy does not recall any conversations about this project and why auxiliary funds were used while TCH was built with E&G. Tracy remembers this was Tony Waldrop's first-year pathway program for international students. Starts entity was created for partnership between Shorelight and UCF. Auxilliary funds could be restricted by statute, although Global UCF used discretionary auxiliary funds.

Skip 7

Tab 8: June 19, 2014

This is a detailed explanation of the sources and uses documents they would have gone through in the budget chat meetings. This is the document that they pull from to add to the E&G commitments list. Central carryforward is the beginning balance. This documents predicts what they expect the balance to be at the end of the year on 6/30/2014.

Christy and Tracy usually provided information to be covered in the meetings, however other information may come to the meeting from other sources. Budget chats were more working meetings although there were some documents that were included consistently (like the E&G Commitments list).

Tab 9: July 22, 2014

Bill would have been the one to come to the meeting to say Colbourn had increased from \$13M to \$18M. Lee was not at the budget chat meetings. The 14-15 allocation document shows \$18M which is in addition to the \$10M from 13-14 (for a total of \$28M). What goes on the allocation document is what has been approved from the commitments list.

Tab 10: Aug 11, 2014

The list Christy is providing here includes items not on the 14-15 allocation document which may have fallen of in prior years.

Tab 12: Aug 12, 2014

Their first knowledge that they were talking about resurrecting the University Budget Committee.

Tab 13: Nothing to cover.

Tab 14-15: Show the consistency of these documents being used at budget chat meetings. Dale Whittaker would have been at these meetings.

Tab 16: Nothing to cover.

Tab 17: Jan 12, 2015

Tracy said this (Current Funding Plan document) was prompted by she and Christy talking about needing a tracking document to follow the multiple projects being funded from different sources. Possible someone asked them to do that, but does not remember that being the case. Bill asked John Pittman to take over this document.

Tab 18: Jan 20, 2015

President Hitt did not come to the budget chats.

Tab 19: nothing to cover

Tab 20: June 19, 2015

Joey pointed Tracy's attention to the 4/22/2014 FFC meeting transcript.

Tracy was always in the room for the FFC meetings. She has missed a couple over the years. She does not recall the exact meeting. Carryforward always meant E&G. She does not recall discussions before the meeting about how to phrase the description of funds. She did not consciously NOT use "E&G" because carryforward is E&G. The committee was familiar with the term carryforward, but may not necessarily have understood it as thoroughly as Tracy did.

Tab 21: March 22, 2016

They were asked to compile this list of unfunded and funded capital projects by Dale. They got this from John Pittman because Bill had asked Pittman to track this document.

Tab 22: March 23, 2016

The notes on the document are Dale's notes. Tracy did not attend the meeting but she knows his handwriting. Yellow sticky on the appended email looks like the attendees: Hitt, Mike Morsberger (VP for Advancement (fundraising)), William Merck. Tracy does not recall if she actually ever had this follow up meeting with Dale.

CITF is a fee students pay per credit hour. They send that up throughout the year. Bond finance uses that revenue stream for bonds. Dan note is Dan Holsenbeck. This could be referring to whether they can get bonding on the Band Building.

Tab 23: July 6, 2016

Done with Interview Binder

TCH Building Program

Tracy never knew these were done for projects until this investigation. She was not involved in preparing this one. It does not surprise her that these are done, but she did not know about them.

p. 26: reference to BOT approving CIP with TCH coming from E&G

p. 57: University Funding = \$38M

Asked about the Turnbull Center (FSU's continuing education conference center) at FSU where they used E&G carryforward funds which led to BOG revising regs to clarify how E&G carryforward could be used.

Tracy does not remember hearing about the Turnbull Center.

Tracy is not familiar with the UCF Master Plan, but she knows of it anecdotally for the board meetings. This is really a Lee Kernek document. If a building is not on the master plan, it cannot be built. This is a facilities master planning document.

Meeting in Dr. Hitt's office when Bill made the audit comment, Tracy is not sure when this meeting happened.

The CIP list is referred to as the wish list. If it is not on this form, you can't do it.

Capital Outlay Budget: She does not understand the purpose of this form but it is not in her area of knowledge. Lee Kernek may have a different understanding and explanation for this form. Bill would have worked on that document with Lee.

David Norvell is the leader of sustainability, a type of subject matter expert really.

Witness: Tracy Clark

Date: 12/6/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG. Michelle Davis, PWC joined by phone.

TAB 1: Attachment D to Operating Budget presented to BOT in May each year

Attachment D is not really in there for BOT to act on, they are approving attachment A. Attachment D is really information for the BOT to see where UCF is so far for the year. Tracy does not recall deciding which categories to allocate certain amounts to for attachment D, instead much of the categorizing was system-driven. The format of attachment D changed (between Summary of 2014-15 Expenditures and Summary of 2015-16 Expenditures), Tracy believes the format changes were due to trying to present the information to the board in the best way. The change was not intended to conceal TCH transfers.

TAB 2: Exhibit Fs Operating Budget package submitted to BOG in August

The BOG approves the budget related to exhibit F in the end of the fiscal year. The package submitted to the BOG in August is called the "operating budget submission."

Fund Balance Composition Reports

These are submitted at the same time as the operating budget submissions. It shows how they plan to use funds in the coming year. Tracy thinks they put TCH in "Deferred Maintenance Projects" because that was the best place to put it, the closest category.

Allocation Document

The allocation document is the plan document or control document. It does not really have anything to do with the operating budget. The budget for E&G is approved in the operating budget and the allocation document says how they are going to allocate the E&G budget. The budget group prepares the allocation document (Donna). Allocations from the state are designated as recurring or non-recurring. After Vanessa Fortier left, Tracy would sit down with the Provost Whittaker and go through the allocation document. This meeting may have lasted about an hour. Tracy met with Hitt once to go through it. The meeting may have been about an hour although level of detail would be less. It was clear in the meeting they were discussing allocation of E&G funds. He would have had to explain to Whittaker what the document is.

Tracy's conversation with Bill about the issue using E&G funds for TCH happened when it first became a new building. She did not raise the issue again with Bill because he had already made the decision. She did not raise it with Whittaker because she had brought it up to Bill already.

Tracy recalls talking Whittaker through the allocation document and he attempted to understand the details of the document.

Tab 3 Email from Tina Maier

Ronnie was Whittaker's Chief of Staff at this time.

Tab 4

This email was during the time they were trying to put together a list ongoing projects. Attached list was Lee's way of tracking her projects she was responsible for in facilities. This was likely sent to them in the process of them putting together that list.

Tab 5

The maintenance of the projects list was transferred to John Pittman.

Tab 6

This email may have been in response to a conversation with Lee that she would send her latest list. Lee allocates \$28M of E&G to TCH. Tracy thinks she did this because the funding had been committed at this time although it had not been transferred until later.

Tab 7

Tracy and Christy took back the responsibility of maintaining the list at this time. Tracy knows John knew because he maintained the document.

Tab 8

Tracy and Christy were trying to get some "control" around the process of funding projects. Trying to get everyone on the same page.

Christy Collier works for Joel Hartman (VP of IT). She manages "space" allocation.

Christopher Parkinson was in charge of the program for faculty research clusters.

Curtis Sawyer worked for Bill Merck as Associate VP for Building Services.

Tab 9

Gina's response to the Tab 8 email. She combined CH and TCH into one line item.

Tab 10

Slide 24 regarding carry forward would been a general conversation about how to handle funding challenges.

Tab 11

Tracy thinks Lee didn't want to put comments from the Raad report in writing because they were so bad it would scare people.

Tab 13

The last four transfers were from facilities E&G, not from the central reserve. Facilities would not have needed additional approval to transfer these because the funds where theirs to use. (?) This if for them to incorporate energy savings that may be a higher cost initially but will save on utility costs later.

Tab 14

Text A: corresponds to Pittman Binder Tab 5 email.

Tab B: Related to talking to Dr. Hitt about the allocation document.

Tab C: This is distance learning money.

Tab D: Tracy asked Christy for the big items paid out in carryforward. Preparing for Bill or Dale testifying before the legislature.

Tad E: ??

Board Budget Retreat

Dr. Hitt and Dr. Whittaker both attended the retreat. The retreat was broken out into 2 days. Auxiliary, DSO, and outsourcing budgets were presented on the second day.

Tracy or someone in her office prepared the powerpoint. Bill would have reviewed the powerpoint before it was final. She presented on slide 27(?). She and Bill both spoke. Tracy does not recall any advance discussion with Bill about how to discuss TCH. She does not recall being concerned about getting questions about the funding source for TCH. That would have been a conversation for Bill to have as he had done within the university.

Slide 6: Operating cash includes cash restricted for restricted for construction? Operating cash means cash balances of the university and this pie chart means "where it is sitting." This is a representation of where the cash for the university is.

Slide 15: ??

Slide 47: This was Lee's portion. Tracy does not remember how Lee described "university funds."

August 13, 2018 Meeting with Dave Walsh in Bill's office

Tracy does not recall this meeting.

Lee Kernek

Tracy is not going to speculate as to whether Lee was aware of the restrictions on E&G funds.

Meeting with Dr. Hitt

There is an email of Tracy asking Angie to make 5 copies of the schedule. It should have been around this email that Merck said audit comment in front of Hitt and Whittaker.

Witness: Scott Cole

Date: 9/26/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background with UCF

Cole joined UCF in January of 2002. He was hired as General Counsel and was the only lawyer for UCF when he was hired. Since then, he has grown the office to 12 lawyers. The office structure includes Deputy General Counsel, with other attorneys broken into different offices.

Who handles capital projects?

Jordan Clark is the attorney who handles construction projects. Other than Cole, no one else really works on construction.

Who supports finance and accounting?

No one is assigned to finance and accounting, including debt financing, instead it is handled "ad hoc." These would go to Cole or Clark.

Scott's office has no involvement in the CIP/PECO list or in putting together info for capital projects for the legislature. His office is not involved in finances unless a question is brought to them. They look to the CFO and office of accounting to handle those issues.

Prior confusion about funds?

No, this particular issue has not come before them. Typically the issues they get are in the context of direct support, affiliated corporations (athletics, ...). There has been lots of discussion in past about what types of funds those departments could use. Scott has not previously been consulted on this specific issue of the use of E&G funds. He knew E&G was operating money. He knew of a \$1M cap, and now has heard about a \$2M cap.

When did Scott find out about the news?

Scott found out around the time of the state auditor general (AG) exit conference. Perhaps a week before, Kathy Mitchell may have told him about an upcoming meeting that would raise an issue with TCH. Scott wasn't brought "in the loop" until closer to exit interview. He thinks Kathy told him because she's the one who works most closely with the auditor general. His best recollection is that an issue is was going to be discussed about TCH and an improper use of funds. Scott did not do anything immediately after finding.

About the exit interview:

There was a large crowd in Scott's conference room, including Bill Merck. John Pittman, internal audit, finance and accounting folks, probably Tracy Clark, not sure about Lee Kernek. They went through several other issues first, then raised the issue of TCH. Then Bill spoke up. Brenda asked about it. Merck said, "This is on me, I authorized it, I'm willing to take the audit comment."

Merck's explanation?

It was clear Merck knew it wasn't permissible. Merck thought it was a "sick building" and "had to get people out of there."

Scott doesn't recall anyone else speaking on the issue; just Bill's comments. There was no back and forth between Bill and Brenda really.

Scott's next steps?

A "short period passed" and they had meetings with Merck, Grant Heston, Dale Whittaker in Heston's office. They wanted to figure out what happened and how it happened. They were naively hoping there was some great explanation from Merck about it. Merck was consistent that he authorized it, and that "it was his decision alone." Merck talked about condition of building, that calls had been made to Chris Kinsley who said there was no other money. Cole asked Merck if there was a plan to pay it back, but Merck wasn't very hopeful that was going to happen. Cole sensed they still hoped to get back state funds to pay back the E&G. Cole wasn't totally clear what Merck meant by that. It did not come up whether other people were informed. Merck did not identify any others within his reporting structure who were involved or aware. His whole persona was one of resignation that he did it, "my bad".

Merck's state of mind was resignation that he had screwed up. There was no attempt to defend himself at all. He realized he was not going to survive this. It was "almost a martyrdom thing" that he saved students and staff. His rationale was that he was going to throw himself on the flames. It was very uncharacteristic of Cole's prior experience with Merck.

There was a BOT meeting where Merck proposed to have UCF to go ahead and fund the building and then have the BOT put the building on the PECO list and they would get funding back from the legislature to pay UCF back. Cole thinks paying the money back was Merck's intention. This was a meeting before everything was discovered. Merck was very vague, referring to "carryforward" and "non-recurring." At this meeting Merck was focused on the strategy of getting reimbursed after the building was built.

Any discussion about what Merck had told people about the source of funds?

Merck did not say anything about that but Cole mentioned it. He told Merck that he was missing the point, that he had made misrepresentations to BOT. Merck's response was that he made the decision. Merck didn't get that it wasn't his decision to make. Merck would not dispute that he had given false information. Cole thinks his description in agenda items was so that a person without detailed knowledge of funding sources would not know there was an issue. Cole has all these meetings on his

calendar. They were all between exit interview and BOG call. Date of BOG call → can get that from Dale's assistant.

Next, Cole was notified that there would be call with Chancellor of the Board of Governors. Cole and Heston were there, Merck was on call, Chancellor Marshall Criser, Vicky Shirley, Chris Kinsley, maybe others.

Next, Cole's office got long records requests from the BOG. The Q&A doc was list of questions from BOG. The BOG had Cole reach out to Kernek, Clark, Tant to get information. Tanya Perry would have correspondences between Cole's office and the BOG. This all happened before the letters.

Cole had brief conversations with Clark when they were meeting in his conference room to go over documents to respond to the BOG questions. Clark "basically acknowledged that she knew about it." She was very upset, had tears in her eyes.

then Scott had telephone call with kernek. she said she had detailed notes of everything that happened. was going to turn over her notes to tanya. scott told her not to turn over notes to tanya because would become public record and sentinel would public so instead just tell tanya information. thinks kernek would be treasure trove of everything that has happened. scott's impression was that she knew but was not he responsibility to confirm source of funds and that responsibility was on accounting team, tracy and Christy specifically. Scott doesn't know enough about operations to judge that. he knows facilities requires funds to be in their account before they start a project but not much beyond that. she said bill knew all about it. she said her notes indicated that president hitt knew about it, that hitt was in meeting where it was discussed. did not say john knew it was eg funds and that it wasn't ok to use eg funds.

is hitt still employee?

he has one year contract to do fundraising for university for the next year. he does not live in FL he lives in Wisconsin. had been president for 26 years. he was a professor, came up through ranks

anything else from call with lee?

she also said dale was in a lot of meetings with this. lee implied that he knew but did not say dale knew. scott did not take notes from that call. may have notes from some later meetings that he will share with us.

next?

Scott talked to president whittaker in person. whittaker told him he was in a bunch of meetings on building, his focus was on academic interest in building TCH (square footage dedicated to departments), he did not pay any attention to funding topics or materials. scott asked if he was aware or made aware that university was using prohibited funds and whittaker was adamant that no and if there was any discussion it wouldn't have meant anything because it wasn't his area

JB: asked scott to put together notes on timeline of timelines, not to talk to grant that we may ask him to do same and compare them

scott had no one on ones with bill

scott had other discussions with dale after the first one but was comfortable after first convo that dale did not know. other discussions were to strategize about how to address damage. had made decision to seek outside investigation. did no more internal investigation nbecuase didn't want to taint internal investigation.

Tanya put together that timeline/chronology based mostly on converstaions with tant and kernek.

going back to bot and bot committee meetings?

scott thinks he was at 2014 committee and bot meetings because he attended most. at april ffc meeting remembers discussion of construction, does not recall anything beyond general reference to carry forward, non-recurring. generally recalls discussion about how bad colbourn was and decision was made to try to build better/safer building. doesn't recall who specifically recalled. lee would typically do most of speaking ad bill would jump in with what scott calls "color commentary". scott thinks committee meetings are recorded on audio. no recollection about specific discussion of how it would be payed for or type offunds. at may bot meeting doesn't recal much. typcilaly when projct has been approved, not a lot of sdiscusion and big bot level. typically someone will say somethinga bout a project and then they vote on it. doesn't recall anything but confident that if there was any discussion it would have been same general language.

recurring = thing legislature appropriates every year like employee salaries

non-recurring = one time funds could be PECO funds, aux, donations,

carry forward = not spent in year and carry forward to next year (unlike most state agencies)

scott didn't' serve on any ubc or fbc boards or attend those meetings.

scott has no role in CIP process or putting those lists together

scott has no recrods of him being at any meetings involving colbourn hall prior to discovery of misuse, except mmaster plan meetings. not in any meetings discussing funding of colbourn hall.

scott has run somesearches for colbourn hall, has his emails back to 2013.

bob asked about historical use carry forward fund, kernek put it together some time ago.

Audit comment → audit reponse to something, can vary from concerning to not concerning.

Witness: Joseph Conte

Date: 11/16/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Conte was appointed to the Board of Trustees by the governor in August 2015. His term runs through 2019. Serves on Strategy (chair), Advancement (vice-chair), Labor & Comp Committees. He participated in a "very comprehensive" orientation when he joined the board. He does not remember any specific discussion relative to E&G during the orientation. The orientation focused on use of systems, equipment, and what he "could do for the school."

June 2016 Meeting:

The vote in June 2016 was a "routine need" vote and they were convinced of the need. If he questioned the use of funds, he likely questioned the information rather than questioning whether it was wrong. The initial decision on the project occurred earlier. By 2016, the discussion was around why the best decision was to build a new building rather than renovate.

Mr. Conte believed that capital funding could only come from PECO or philanthropic donations.

Mr. Conte was not aware of the plan to build TCH and renovate CH. He only recalls discussions of whether UCF should build new OR renovate. He "absolutely assumed" they were funding the project with PECO funds.

CIPs:

Mr. Conte is familiar with the CIPs, however does not recall seeing TCH on the BOB-2 with E&G as the funding source.

Audit Ding or Audit Comment

Mr. Conte does not recall Mr. Merck making any reference to an audit comment or audit ding, although he believes he would have remembered if something like that was said.

Mr. Conte had limited interaction with Mr. Merck, but none related to TCH or CH.

Mr. Conte is not familiar with Lee Kernek and does not recall meeting her..

Mr. Conte does not recall hearing about this misuse of funds through a phone call from Scott Cole. He first recalls hearing about this at the emergency meeting.

Mr. Conte has met with Mr. Whittaker many times, however has not discussed this with him.

Other thoughts?

Witness: Donna DuBuc

Date: 10/3/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Started in Dec 2011 as assoc dir of university budget, reporting to tant. has been in the same position although tant's position has been elevated to cover other areas. Was promoted to Director this month. Megan Diehl left 1-2 months ago.

Process?

When she started, the office was "really a mess". First few years was trying to figure out what they were doing while still processing budget transfers. The commitment control ledger: if there is not enough budget in commitment control, cannot put a transaction through in general ledger.

In 2014, they posted journals directly into commitment controls. Member of community (different departments at the university) would submit form by email, someone in office would enter transfer, someone else would post it. Review procedure was in place to make sure transfers were not going between buckets for types of funds. Donna's money doesn't move any money (that's Brad's group), hers just transfers budget.

She is not involved in UBC or FBC committees. She has been to one UBC meeting. When decisions are made about funding, Donna will communicate those to her team.

Donna is involved in creation of budget for tuition and fees. They estimate credit hours, etc. and create the budget. State appropriations just come from the state. Carryforward, (still E&G just unused rolled forward). Carryforward doesn't specify line items of what will be spent, just a general bucket of how much total is available to spend. They calculate the amount of carryforward by division. It gets posted in commitment control ledger.

Documents?

E&G commitments list was a joint document maintained by Christy and academic affairs. This was before Megan Diehl came over from Academic Affairs. Lynn Gonzales and Provost at the time and Merck would know about those. they would have meetings and create a schedule that was a plan for university

funds. This commitments list would be used to create allocation document. Commitment list is for E&G only. Would show if commitment was recurring or non-recurring. Donna didn't make the decisions on the commitment list but Christy might direct Donna to put things on the commitments list. The commitment list has line item detail showing something like TCH. Not signed or approved by anyone. Don't provide it to the BOT. Used it to understand how much they have in E&G reserves, to project down the road.

Allocation document (also E&G only) was the final approval. This is the plan for the next year. Also shows line item detail and would show something like TCH. President and provost sign allocation document. Things that come up mid year would be reflected on the next year's allocation document. They use the allocation document to distribute budget out to the units.

The fact that a project appears on commitments list and allocation document means E&G funds are going to be used for it.

Donna's office does prepare operating budget for approval of the BOT that goes out in May. Has budget for each of entities, but does not include spending plan.

She has seen a capital projects schedule (on the T drive) that showed projects and how they were going to be funded. Christy maintained it based on her meetings. Had a conversation with Phillip about capital projects schedule earlier this year. They were trying to figure out who is doing what where. Donna asked Phillip if they could begin using that schedule again. Likely Christy was using it for her own purposes. Donna found it helpful to understand what was going on.

Understanding of restrictions on E&G funds?

Had heard that E&G funds could not be used to construct a building, but thought it was a management decision because that was the way things are done. Thought E&G funds could be used to support the E&G mission. No documentation on what it can be used for.

Probably heard from Christy that could not use E&G funds for buildings. Not sure when.

Understands what the fund balance composition report is, but has not prepared. It shows carryforward balance, contractual obligations, what you plan to spend but not contractual. Megan prepared it the last few years, Christy reviewed it. Christy may have prepared it prior to Megan. Christy probably prepared it when TCH was on it.

Megan Diehl left for personal reason unrelated to TCH.

State AG Audit?

Phillip asked Donna how TCH was funded. She told him it was central carryforward. He asked is that E&G. She said go talk to Christy, she needs to know you're asking those kinds of questions.

Discussions?

People are all pretty angry that these decisions were made, they executed them, and they are now all being dragged into this. She blames Merck, not Clark, not Tant. She has not asked Clark or Tant. Kathy Mitchell has told them not to talk about it. Donna does not want to talk about it. Not aware of anyone else outside of Merck who was involved.

She sits on audit committee for athletics, Merck chairs that committee. They had been operating without an audit committee charter. the charter was a lot of fluff and didn't put any responsibility on audit committee in terms of controls. Merck said "I don't want to put a lot of work on people." She left that meeting feeling disillusioned. She felt like a checkbox on the committee. This was earlier this year. She started to have questions about him. Now she is feeling like she was right.

Anything Else?

Donna mentioned Trustee Walsh's point that lack of process that "got us here in the first place." She agreed with him. UCF is moving at speed of light. The administrative staff can't keep up with it, not without things like this coming.

Other projects?

Downtown infrastructure, student service center, a chiller → she transferred E&G central to facilities E&G. She also did this cash transfer into a construction account. This was maybe early 2017.

For TCH there would have had to have been a budget transfer from central to facilities in order for there to be a cash transfers.

Donna discussed with Michelle and Bob the specifics of pulling the transfers, running a query, etc.

END:

Witness: Robert Garvy

Date: 11/16/2018

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Garvy has been on the BOT since 2011. His current term runs through January 2020. His background is in investments so he was immediately assigned to the Finance & Facilities Committee. He currently chairs the Educational Committee and vice chairs the FFC. Mr. Garvey met with Mr. Merck quite frequently and took an active role on the FFC. He was shocked when he heard about the misuse of funds for the construction of TCH.

Mr. Garvy believes that the education of the Trustees regarding the limitations and restrictions on funding sources was inadequate. Funding discussions were limited to trustees asking Mr. Merck whether "we had the funds" for a project. He may have responded with a comment like "we can move some things around." Mr. Garvy never suspected things would arise to the level of violating state statute and BOG regulations. BOG guidelines are "open to interpretation" and could have been interpreted differently at each university. Mr. Garvy felt there was an issue with Mr. Merck overseeing finance and facilities.

Mr. Garvy learned about the misuse of funds right before the emergency BOT meeting. After Mr. Merck resigned, Mr. Garvy called him to express his "concern" and surprise over what happened. "Mr. Garvy recalls this was the first time he heard Mr. Merck was willing to "take an audit hit" over the decision. Mr. Garvy was "stunned" that Mr. Merck's judgment was not better.

Mr. Garvy did not have any substantive conversation with either Mr. Merck or Dr. Whittaker about the misuse of funds for TCH.

4/3/14 FFC Meeting:

Mr. Garvy recalls CH was in such poor condition, engineers recommended against renovating the building. Mr. Garvy does not recall whether that discussion occurred at this meeting.

5/22/2014 BOT Meeting:

Mr. Garvy understood what PECO funding was for and was aware of the limited availability of PECO funding. He recalls that Mr. Merck would "talk about ways to fund these projects using multiple sources." He does not believe he ever thought PECO was the only source of funds for capital projects."

"Non-recurring funds" would not inform Mr. Garvy that E&G funds were being used to pay for the project. Mr. Garvy does not recall that "non-recurring funds" could be mean E&G. Mr. Merck's comment "take it out of our hide" did not signify to Mr. Garvy that these were E&G funds.

4/22/15 FFC Meeting:

Mr. Garvy's "presupposition" throughout these discussions was that they were using appropriate funds.

7/26/2016 BOT Meeting:

Mr. Garvy does not recall the BOB-2 form. In looking at the form now, if he knew E&G was inappropriate, he would have objected when he saw the form.

Witness: Lynn Gonzalez

Date: 10/4/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Started at UCF in 1994 in academic affairs in the provost's office. (Prior to that was at UCF before and left to pursue masters). Provost is an academic chief operating officer who oversees all aspects of the academic areas. She was assistant vp 2003-2005, became Associate VP for academic budget and personnel administration around 2005 reporting directly to terry hickey (2003-2010) then tony waldrop (2010-april 2014) then Diane Chase (april-August 2014) then Whittaker (August 2014-June 2018). Was in charge of academic budgeting. Assisted provost in making allocations of academic budgeting, deciding what to spend the academic budget on. In March 2015, her position in academic affairs was eliminated. She recommended the personnel piece move to hr or faculty excellence (moved it here) and move budget under CFO. Her new role is director of budget initiatives. She worked/works closely with Dan Holsenbeck.

Currently reports to Chrisy Tant.

7am Budget Chat Meetings?

She recalls these meetings, they had them before Dale Whittaker came. They started under Tony Waldrop. They were on their calendar weekly, s a place holder, held in provost office. Attendees: provost, CFO Merck, Tracy Clark, Christy Tant, Lynn Gonzalez, Megan Diehl (Lynn's direct report, but not a regular member). The president of the university did not attend these meetings. Vanessa Fortier was gone by the time Tony started these meetings. Vanessa was an AVP who reported to Merck. Tracy reported to Merck and Tracy assumed Vanessa's role.

Before these meetings, the had a university budget committee, then when the budget cuts began in 2007 the committee was falling to pieces because members, VPs who were part of it, were uncomfortable participating in the committee. Eventually president hitt decided he was comfortable with provost and cfo making these decisions and reporting to hitt.

Commitment List?

This was a document/spreadsheet that was maintained by f&a (Tracy and Christy presumably). It was a multiple year document. It was kind of a placeholder. Anything that was discussed would go on there. Although it was called "E&G" commitments, there were other projects on there even if it was funded from another source. It wasn't limited to capital projects. Lynn provided information that needed to go on the list for academics.

Ultimately things could move to the allocation summary if they were approved. Then the allocation summary was sent to everyone to go through to be sure their projects/areas reflected what they expected. The provost and the president would sign the allocation document. The allocation document reflected projects for the next year. Usually signed July 1 (beginning of the fiscal year) but sometimes was signed later in August, September? Lynn does not know if it was presented to the BOT or if they signed off on it.

Lynn was not involved in the capital planning process even it would affect academic planning. SPA (Space, Planning, Administration & Analysis) was created and they would interface with facilities because space allocation in a building was deemed to be an academic decision. Ed Neighbor was doing this for TCH, he was a vice provost.

She remembers she was involved in discussions for Colbourn regarding who would go into the space. She recalls it was a renovation. Then in September 2014, she remembers Diane Chase asked to look at the proposal about who was going to go into the space and that is when Lynn became aware that it was going to be a renovation and a new construction.

Understanding of how E&G funds could be used by the university?

They are state appropriated funds and we needed to use them for the operations of the university. In her capacity, she worked very closely with internal audit (Kathy Mitchell). She was very aware (from provost) of a lot of discussions going on because state had stopped providing PECO funding. Was aware PECO was to fund construction. But she thought E&G could also be used for renovations. Just recently (2 weeks ago) learned that there was a cap of \$2M. She had \$250k of E&G funds in her academic affairs budget a line item for minor renovations.

Her impression is that it was known that university was going to use in part E&G funds when it was a construction renovation. On the final document that provost signed, it says Colbourn Hall renovation. She remembers something about using E&G for construction and something about there being an audit comment. She had some personal things going on at this time, but she remembers when all this came out that she remembers some discussions about this.

When everything started happening, Lynn went to Meghan Diehl and asked her "did we ask if they were using E&G?" Meghan said she had been "racking her brain" too. She recalled there were discussions about it too. This is a real opportunity for universities to provide some clarity in that regard.

Her role in the room was to advise the provost on the academic budget. Capital projects where not a part of the academic budget. What she was managing was E&G budget. The divisions show on the document. Her focus was where they were going to put the people, not whether the people were going into a new construction or a renovation.

Lynn has a September 2014 email about a meeting with Dale. Dale wrote an email to Lynn and Diane Chase and to Ronnie Korosec (Dale's Chief of Staff). Dale forwarded an email from Bill Merck to Lee Kernek (copied Tracy) telling her that the provost (Dale) met with the president (Hitt) and described the source of the funding. The email talks about the renovation and the construction. Dale's email said "thank you for the discussion" and they would go forward with the programming. At that time Lynn's impression was that it was a renovation and a building. She didn't worry about it because she knew PECO was handled by another division and that if they didn't have PECO funds that they would be doing fundraising or something else to get the funding.

Colbourn Hall first showed up on the commitment list in 2013 for \$10M for renovation, the 2nd year it was \$18M.

She is aware that there was a problem that all the presidents and provosts were talking about because the institutions weren't getting money for capital funding.

She doesn't see how Dale Whittaker couldn't have known what the source of funding was. Hitt was a stickler for details, she doesn't see how anyone would go into a meeting with him without knowing all the details.

Dale Whittaker is very focused on the large picture and where the university is going. Of all the provosts she has worked with, he was less focused on the details. He was more focused on making things happen.

She came back in 2015 when her husband got sick and subsequently passed. She was on FMLA Jan-Nov 2016.

Lynn was in a conversation with Christy in Christy's office, Christy gave Lynn a "heads up" that the auditors asked about this and Merck was stepping down. Lynn was very shocked. Christy said Lynn is retiring. That they had asked and that they openly told them they were using E&G funds for this. Christy said Lynn may be asked about your recollection, emails, information. At that point Christy didn't seem nervous.

Lynn also talked to Tracy, Lynn asked her about Merck, how he was doing. Tracy says he feels good about his decision to step down. There have been two meetings. Tracy had a meeting with her direct reports. Very recently they had a meeting with Kathy Mitchell.

Christy asked Lynn "do you remember us talking about this during our morning budget meetings." Lynn said she didn't and Christy didn't press her.

Megan Diehl?

Megan contacted Lynn after we reached out to her about an interview. Lynn advised Megan to call Kathy Mitchell. Megan called her back and said she talked to Kathy and that she was not going to talk to us.

Witness: Phil Henson

Date: 10/3/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Started at UCF Jan 2016 as Director of Finance & accounting, reported directly to Tracy Clark. Over general accounting (handles statements and books for university financial and some DSOs), disbursements (vendors payable, disbursements for p-cards, travel), student accounts (receivable function). Now he reports to Christy Tant since Nov 2017.

Processes?

General accounting team does construction accounting. They insure that after bills are paid that we are properly capitalizing assets consistent with GAP and state regulations. His team does not handle any budgeting for capital projects.

His team has one master depository account, PECO funds would go there. One coordinator requests PECO money directly from the state. Draws are typically done after amounts have been incurred or paid. After money has been spent, if they believe its for PECO, they will draw those funds from their master account.

He understands what PECO funds are for. His team gets biweekly E&G state appropriations draws every two weeks into their master account. Thinks of E&G being for instruction and he always knows its operating. He has always known it's not for capital projects.

Carryforward funds are unspent E&G funds which are considered reserve. Every college has a "piece" of that carryforward reserve. There is an excel schedule for these funds. He is not sure if there is a portion of carryforward that is reserved as a central fund. Use restrictions remain the same when funds are carried forward.

The Budget, Planning, & Admin group (Donna Dubuc) budgets for entire university, not just for E&G.

TCH?

During the AG operational audit this year, Henson facilitated operational audit this year although Hodum usually does it. They asked for funding source for 3 buildings. He advised Tant of the request and Tant's group prepared the information. Tant sent schedule to Henson and Henson sent it back to the AG. At that point central reserve was delineated as source of funding. He knew AG would not know what "Central reserve" meant. Tant said it was E&G. AG had some follow up questions and at that point Tant was the one to respond to those requests. Henson noticed this would be an issue when he had a one-on-one with Tant discussing that Merck has agreed to take the audit comment. Not much clear discussion that this would be a big deal. He thinks that Tant definitely wasn't as surprised as he was about this. Her office creates the budget every year, these are large items. There had to have been discussions prior to the time Henson found out. Tant didn't give Henson any excuses or any story when they discussed it.

When the request came that AG wanted to know the funding sources. Tant said "I'll take it". It took her 4 weeks to prepare the response. Henson remembers following up with Tant a lot about where the response was. Once Tant finally emailed the schedule to him, he knew AG would not know what central reserve meant because there are facility reserves, other reserves. Tant confirmed "central reserve" meant E&G funds. He thinks perhaps there was an effort to conceal these were E&G funds. It seemed odd to him that they would use "central reserve" instead of just calling them E&G funds. He didn't understand the severity of this misuse. In response to follow up questions, they told AG that it was E&G carryforward. He did not talk to anyone further about it because he didn't make the connection at that time. They get operational comments all the time, every year.

When provost announced Merck was stepping down, Henson realized severity of issue.

Henson attended exit conference with auditor general. Merck said he "agreed to take the hit for that." The audit comment would be written to Merck and he would have to respond to it. Also understood it to mean that Merck made the decision.

Henson did not have many direct conversations with Clark, communicated with Tant much more. Tant and Clark worked as a team to decide funding sources for projects. Clark is the "money person". She would have to know the details of the funding source. Doesn't think Merck knew the details.

Megan Diehl was on academic side, would not have had any involvement in facilities.

Henson has not discussed this with Hodum beyond "I can't believe this happened." Henson believes Hodum was not aware of what was going on.

Wilson Rosario was a senior associate controller when Henson started. He handled construction accounting. Rosario was on some of the entries from E&G to construction. Entries are initiated by facilities group. Lashonda's group would create the entry. Henson's team approves all journal entries, not budget entries. There is a workflow process that determines who on Henson's team would get it. For things related to construction. Rosario/Nelson would know the type of funds, would know fund ...001 is E&G but may not know the level of significance of what that means. Rosario/Nelson approve and post.

Rosario/Nelson would look for documentation to confirm should be approved. Would look for approval from somebody on the budget team. BOB AND MICHELLE GOT THIS PIECE DOWN.

Megan Nelson took Rosarios role. Rosario was involved in setting up projects and insuring there was appropriate funding for projects.

Henson is required to attend all FFC meetings because usually something on agenda for his team. Recalls Colbourn hall coming up, specifically the razing and building a new one. Does not recall any disclosure of use of funds. When they present the budget every year, that's the only time when they talk about funding sources. Do not discuss funding sources when talking about approving sources for single projects. Budget does not include detail within categories. "You get a chuckle about what they look at an approve." There has been a constant challenge around the growth of the university. Everybody knew they had to be creative. Thinks Merck trusts his folks to figure out ways to get things done. Doesn't see him knowing the ins and outs. Wouldn't know 1001 is E&G.

Henson is not involved in the FBC.

Not involved in E&G commitments list.

Knows CIP list but doesn't know too much about it.

No knowledge of other projects on Kathy's table.

END:

Witness: Grant Heston

Date: 12/6/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Grant started at UCF in August 2007 as Assistant VP for New and Information. In 2014, he became VP of Comm & Marketing reporting to Dr. Hitt.

Dr. Hitt recommended Grant to coordinate search for new president when Dr. Hitt retired. July 1, 2018 he added the responsibility of Chief of Staff to the president.

Grant attended the "status of projects" meetings in the president's board room that Merck and Kernek presented.

He interacted with Merck quite a bit about any incident that could potentially be newsworthy. He found bill to be trustworthy.

He interacted with Kernek earlier in his career.

Grant did not know about any restrictions on E&G funds, regular or carryforward. He was aware that E&G was appropriated by the state and that they tried to spend them on things that directly impact the mission of the university. He did know that they could not pay a university employee salary more than \$200k a year out of E&G funds.

Grant served on the UBC, but does not recall any specific discussion on CH or TCH. He understood the UBC to be focused on exceptional funding requests, not new buildings.

Grant was not involved in producing documents or responding to any requests for the state AG audit.

He had a calendar event from August 22, 2018 with the state Auditor General. Bill Merck attended the meeting. He recalls a very brief mention of TCH and Merck responded "yeah, I know." They spent most of the time discussing other topics.

August 28 at 2pm:

Later there was a conference call with the chancellor about TCH and that it was a "big problem." Whittaker, Cole, Janet Owen, were on the call. He does not recall if Bill Merck participated or not.

Following the call, there were many impromptu meetings and discussion around how they would respond to the problem involving Merck, Whittaker, Chairman Marchena.

Scott and Grant met with Merck on September 5. (Grant will provide meeting invite and any related communications)

Bill wanted to present his side of the story to the BOT at the September 6, 2018 meeting. Scott Cole and Grant felt that was not the best thing for him to do. They sat down with Merck and said "tell us with you would tell the board." As the listened, both began to feel that Merck was defensive. Merck said he would do it again.

Merck: "They wouldn't approve it if I told them E&G." "I would do it again."

Scott and Grant eventually said they did not think Merck should even come to the 9/6 meeting. Dale agreed and **decided he needed to accept his retirement? Did Merck offer retirement or did Whittaker ask for it?**

Grant feels that Merck's letter is totally at odds with what they discussed in that last meeting. In the September 5 meeting, Merck said "if I had gone to the board they wouldn't have approved it." The letter did not jive with that meeting. Grant said "internal carryforward is a vague term that could mean many things." Merck said "I did that on purpose because I knew that if I told them what it really means then they wouldn't have approved it."

Grant does not recall Merck saying anything about the use of E&G being temporary and that he would continue to try to repay the funds (even if he didn't get caught).

September 6 was the first time they announced Merck's retirement.

Despite the severity of the issue, they considered the option of having him stay on through the end of the year. They tried to let him preserve his dignity on his way out.

Dr. Whittaker is a compassionate person. It was a hard decision to end Merck's career "under a cloud."

Dr. Whittaker's knowledge of E&G?

Grant believes Dale was never told and didn't know the use of these funds violated state statute or BOG regulations.

No discussions with Tracy Clark or Lee Kernek about this.

GRANT WILL PROVIDE:

- any notes from 9/5 meeting 2:15 - ? calendar event?
 - any communications
- 8/22 AG meeting
- 8/28 call with chancellor

Witness: Dr. John Hitt

Date: Thursday, October 25, 2018

Interviewers: Joey Burby, BCLP, Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Hitt began at UCF in 1992 as President. He came from Univ of Maine, prior to that was at Bradley? Background is in Psychology. When he came, there were 21,200 students, but now around 66/67k. As they grew, some systems grew and some did not. He has found people at UCF to be almost uniformly ready to fix problems. He would "forecast a good result on [our] efforts."

Hitt's pattern has been to hire a Provost and if they do well make them an Executive Vice President as well. After Tony Waldrop left to go to University of Southern Alabama, Diane Chase was interim Provost until Dale Whittaker became provost. Diane Chase left as a "disappointed candidate."

Hitt hired Merck. His CFO responsibilities were added later.

Hitt was clear there were restrictions on funds, but had grown somewhat "lax" on what the restrictions were. Hitt hires good people and depends on them to do their jobs. He would be "hard-pressed" to recite the restrictions. He was familiar with carryforward, would lump those funds in with general category of E&G.

Turnbull Center at FSU

Hitt thinks some of his people of UCF would have been aware of what happened with the Turnbull Center.

Budget Process

The responsibility and authority was given to the Executive VP as chair of budget planning committee. Hitt was hands-off and would review in very broad strokes. He cannot remember the last time he made a change. The budget planning committee was an administrative group made of VPs, others, students. When the severe budget cuts happened, Hitt learned the work had been pushed onto 2 or 3 key people. When they hired Tony or Dale, Hitt expressed his desire to try to reestablish the practice of including all the VPs.

Hitt does not recall a budget review meeting on Tuesdays.

Allocation Documents?

Likely someone would bring the document to him, he would ask if it was right, and he would sign it. He trusted the people he had hired to do their job.

General Recollection of CH/TCH

There was a lot of discussion about the best use of whatever money they had. He does not have much recollection about the budget or funding. He recalls the building assessments/evaluations

Hitt left campus Wednesday June 27, 2018. He didn't hear any more about this until at least mid-august.

Around August 15 or 16, 2018, is when Hitt recalls finding out about this. He recalls being shocked that they had done something that was impermissible. No one came to Hitt during the audit about what was going on.

The allocation document signed in August of 2013 allocated \$8M of E&G to CH.

Feb 20, 2014 - Does not recall this meeting.

Hitt attended all BOT meetings as corporate secretary.

Joey showed him 4/3/2014 FFC materials. Hitt reviewed and said it looks like they will go ahead and do it and figure out how to pay or it later. Hitt would not doubt he was there. The meetings were pretty casual, although they were certainly doing important and necessary work. He compared this to boards where the meetings were "all business" and were more formal.

5/22/14 BOT Meeting

Hitt is aware of the discussion about how they could get enough non-recurring non-E&G funds. He understood non-recurring to mean something like auxiliary reserves. Hit spoke about the convenience of E&G funds being located in one location while auxiliary funds may be in different places. He does not

equate non-recurring funds with E&G funds. He suspects that if they had said they were doing the project with E&G funds it would have triggered discussion; specifically he would have been one to say something about it. Hitt reviewed the meeting transcription and thinks there should have been more specificity regarding where the funds were coming from.

FY14-15 Allocation Document

Hitt believes this document would have been presented to him and he would have signed very quickly.

Jan 20, 2015 Email (Tab 18 in Clark/Tant Binder)

The email sounds like there was a meeting between Hitt and Whittaker that Bill Merck was told about.

April 22, 2015 FFC Meeting

Hitt was “probably not” at this meeting. Joey directed his attention to the transcript. Hitt said they are getting closer to not being ambiguous. As he read it, sounds like they are talking about E&G.

May 20, 2015

Hitt does not recall the meeting but agrees from Lee’s notes that he agreed with what they were discussing.

Hitt does not recall Merck making a comment about an “audit ding” or “audit comment”. He thinks Merck was likely frustrated. According to BOG estimates, UCF has less square footage than it should. There was a frustration among staff about this.

March 23, 2016 Meeting/Emails

Hitt does not remember this meeting.

TCH Building Program

Appendix C, page 57: “University Funding” could mean anything including auxiliary reserves. Hitt asked what it makes you wonder what “flavor” of university funding it is.

pp.25-26: TCH "funded by E&G"

Hitt would not have looked into the details of this document. He does not recall it although he signed it.

CIP?

Hitt is vaguely familiar with the term CIP, but not familiar with the BOB form(s) themselves.

At universities, someone is responsible for that level of detail, however it would not be the president or the provost.

There is a lot of frustration at UCF about capital planning.

Do you think you knew E&G funds were used to build this building?

Hitt: It just didn't register.

Did you know you were improperly using funds to use this building?

Hitt: He thinks it's kind of hard to say one way or the other.

Burby reiterated the decisions were made in 15, 16, some in 14.

Hitt: Can conceive of Bill or somebody saying they will get an audit ding but they will be able to correct it and move on. He can recall some meetings where there was discussion in that area, but does not recall a specific instance where he made a decision to build a building using E&G funds.

Hitt described his relationship with Bill as a "close relationship." It is possible Bill did not share things with Hitt. It is also possible that in the last few months/year of his presidency he may have missed some things, but that does not mean he was not responsible.

Witness: Brad Hodum

Date: 10/3/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

May/June 2013 started with UCF. Started as associate controller of finance and accounting. Reported to directly to Christy Tant. About 3 years ago, when Tracy moved into dual reporting position, Phillip Henson joined and Hodum began to report to Henson. General Financing and basic reporting, all GAP reporting. 2 associate controllers, the other one is Tera Alcala. Tera oversees DSOs, Hodum oversees universities. Each of them has an assistant controller that reports to them. Megan Carigan, Burt Francis. Under them are a series of coordinators and accountants. Megan Nelson reports to Megan Carigan. Nelson is responsible for capital asset accounting.

Process?

His office does draws for PECO. Draws done in arrears. What is spent in a month is drawn at the end of the month. When money comes in it's posted directly to the project.

Facilities handles funding of other capital projects with non PECO funds. They initiated the transfer journal and Hodum's team would approve it. Transfer occurs in general ledger, project setup is in project budget ledger. This is where Nelson would interact with Lashonda in facilities.

Major projects \$5M and above → this can be everything from renovations to building a brand new building from scratch.

Minor: Under \$5M

Very minor: \$50k or less

His understanding was any amount of E&G could be used for renovations. E&G could be used for certain capital projects. Wasn't certain about the specific limits or restrictions. Had heard there were restrictions on E&G funds in general, but not necessarily that they could not be used for construction of a new building. He was aware of E&G funds being used to construct new buildings. Just figured there was a reason for it, that it was ok. Because he does variance analysis for general ledger, he knew E&G funds were being used for Colbourn hall, this could have been a couple years ago. He's not sure if at that point it was being used for renovation or construction. Didn't know they were being used to construct a

building until recently. He did not suspect at that time that that was a misuse of funds, that it should not be occurring.

They do a quarterly review of budget entities. Could see a variance of transfers of E&G to construction.

Nelson never told Hodum hey I see E&G funds are being used for construction, is that ok. No discussions with Tracy Clark about this. She would get the quarterly review reports and would be able to see that E&G funds were being used for construction. Interacts quite often with Tracy, usually ad hoc information requests

State AG Operational Audit

Brad was not involved this year, but previously he had been involved in them.

He was at the AG Entrance Conference, they mentioned at the meeting they would look into the use of funds. But didn't really.

Hodum was not involved in preparing the material that went to the AG. As it was happening it didn't seem like a big deal.

Heard about the severity of the issue with E&G funds being used when Henson mentioned it to Hodum. Henson didn't seem worried. Hodum assumed they had had conversations with Merck that that's just what it was going to be.

Whittaker had a meeting with all of Merck's direct reports to lay out what would happen. Tracy and Christy had meeting with all F&A management. Discussed that the project was evolving, started as a renovation, eventually decided to build a new building, and that this was a misuse of funds.

JB: Tracy told us that Hodum knew this was a misuse of funds.

Hodum definitely didn't know it was wrong at the time. Generally knew there were restrictions so assumed there was a new building. It was a large amount, and knew they didn't typically use E&G funds for large construction project.

Back to Variance Analysis:

They investigate variances if it looks like something that needs to be corrected. Level of detail includes specific project the transfers are related to.

Reports that Identify E&G Funds?

Not annual financial statements, construction commitments, or financial ratios.

Potentially quarterly operating budget status reports. snapshot of how budget looks by revenue entity.

It would not surprise him if Tracy and Christy knew E&G funds were being used. Not sure if they knew it was inappropriate use of funds.

Brad Hodum prepared Exhibit D summary document given to BOG.

They keep appropriations in one department for E&G. It never leaves there until the end of the year. Departments spend negative cash and then they get it back at the end of the year.

They debit expense, credit cash for E&G department that is funding the construction project. That department would have negative case and they would make the department whole again with appropriations.

Tracy and Christy would have to approve the budget so they would not have been surprised to find out E&G funds were being used for construction of TCH.

If a department has a need that comes up later, they can pull more budget out of central to the department.

If central funding would be funding the project, the entry request would not come from facilities, it would be requested by Christy/Tracy to direct Megan Nelson to create the entry.

For Colbourn hall, they have pulled the entries and the backup.

The way to pull activity for an account it to pull activity associated with the construction account.

END:

Witness: Susan Hutson

Date: 11/16/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Ms. Hutson started at UCF in March of 2016 as the Assistant Director of Planning for Facilities, Planning, & Construction. She reports to Bill Martin and has the entire time she has been with UCF. She is in charge of the archive, the campus master plan (they do an iteration of it every 5 years). She is "skilled at programming buildings." Programming buildings is the process of allocating assignable space in a building. After assigning spaces, she writes a brief narrative of all the spaces. Architects can do building programming, however Ms. Hutson handles this piece because architects would not push back against the end user on what they may want in a building. Ms. Hutson pushes back to encourage sharing

She has programmed the academic building downtown and nursing. She did not do the academic space program for the building, the architects did that, Ms. Hutson just put the information into her preferred format. The BOG has a regulation that requires the president approve a building program.

Ms. Hutson began attending TCH meetings immediately upon starting at UCF. At that time, TCH was a large addition to CH. A building program document was already in progress when Ms. Hutson started. ShenkelShultz drafted the original building program. Ms. Hutson took their list and dropped it into her format. A building program document must state compliance with certain items for the president to sign it. Ms. Hutson wrote the building program for TCH. Pete Newman provided Ms. Hutson with a "go-by" for the TCH building program. She does not recall when she began working on the building program, however she believes it took her at least two months to write. As Ms. Hutson was writing the building program, Ms. Kernek was developing a procedure for drafting building programs. Ms. Kernek also reviewed the TCH Building Program as Ms. Hutson was drafting and provided comments and feedback throughout the process. Montell Watson and Bill Martin were also involved in the process. The red text in the building program is the procedure. Ms. Hutson included the timeline (pp. 25-26) to help a reader understand the background of the building.

Was just trying to track a history of the building. She did not include all of the information.

Ms. Hutson "knew nothing about funding." She researched various funding types as she was working on the building program. Either Ms. Kernek or Mr. Martin gave Ms. Hutson the information about the funding source included in Appendix C (p. 57).

She first heard of the issue with the misuse of funds when the president sent out his notice that the BOT was hiring a law firm to look into this. She was told to read about it in the newspaper.

She was not asked to produce anything for the operation audit in the spring. About a week ago she gave some emails to Renwick Daelo. He is the associate director for design for facilities planning and ????. Bill Martin was the one who requested the emails but he was out when she provided them so she gave them to Mr. Daelo. 10/30/2018. Suzie, lee just asked that you be added to this data request. Please put all your TCH related emails on a flash drive."

Initially, Ms. Hutson was submitting versions of the building program in hard copy, paper. When she found out lee preferred tracked changes, she switched to tracked changes.

She does not work with Gina Seabrook much. She did not work with her at all on the TCH Building Program. Gina may have given her a template of CH/TCH.

She has never discussed the funding of trevor colbourn hall because she does not have anything to do with money.

Lee held one meeting the day Mr. Merck stepped down and told the office to be honest and that they would get through it and that they had not done anything wrong.

Witness: Tim Jones, BOG

Date: 10/18/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Tim has been in his current role for 10 years. He started with BOG when it was Board of Regents in 1999.

FL University Budget Approval Process

This is the E&G process; the facilities/PECO process is separate. E&G consists of 3 sources: general revenue, lottery and student tuition.

By statute, schools are required to submit their incremental priorities for upcoming session; this is where the capital outlay piece occurs. Schools assume they will get base budget automatically so they are requesting their incremental increase for that year.

Legislature provides base budget funding and approves incremental funding adding to that base.

BOG asks universities to submit needs, BOG provides this info to legislature in advance of session.

In September, budget requests go to BOG for consideration. BOG focuses on system-wide initiatives and approves those. Included in what is presented to BOG is list of university initiatives.

BOG sends the system initiatives to legislature in October in the legislative budget request (LBR). Universities lobby their university initiatives directly with the legislature.

At the end of 60 days, pass appropriations act which line-items funding for each university. In a normal cycle, this will be the base plus any incremental that was added. Governor usually adopts the budget, but can veto. Budget goes into effect July 1.

Before BOG can distribute funds, university must have BOT-approved budget. BOG asks for detailed budget in August which goes to BOG for approval in September. This is provided at a very high level of categories. Ex: staff salaries, expenses (which can include travel, office supplies), financial aid, etc. As they work through budget, they work down to object codes which is a more detailed description, however BOG does not look at this level of detail. This is the only budget the BOG gets because BOG has delegated day to day financial responsibilities. The BOT is responsible for looking at the object codes.

They have gone back to look at the materials UCF provided during the relevant timeline, but have found no anomalies.

Carry-forward reporting process is different.

Fund Balance Composition Report: just shows carryforward available. BOG asks for high level report of how much carry-forward a university has. University responds with their current balance. It includes contracts and commitments of carry-forward funds.

Expenditures of what was spent from carryforward show up on budget for next year. This is a new step in the process that is new in recent years. This report is part of the operating budget package submitted in August operating budget. August budget is more specific than June budget. June budget is really high level so that they can just get a budget in so they can begin to get their money in July.

Tim will send report numbers to Julie so we know what to ask for.

There are a few places in the statute that refer to a \$1M or \$2M cap. Section 255 of Florida statute. BOG has discussed with schools that E&G funds may be used on renovations up to \$2M.

History of Carryforward

In 1985, legislature passed law to allow universities carry forward up to 5% of funds. In 1994, revised statute to talk about what they could spend carry-forward on. In 2002, changes statute to remove 5% and require a minimum 5% and removed definitions opening it up to use for anything related to operations. If drop below 5%, no penalty, just have to report to BOG that they are below and provide plan of how to replenish minimum.

Historical confusion about using E&G for capital projects?

BOG thought the \$2M cap was well-known knowledge. Had universities ask if they can do something which is within the \$2M. Never had anyone ask

FSU Turnbull Center - FSU used about \$10M of E&G carryforward as part of the construction. At least 10-12 years ago.

BOG modified their reg to say E&G carry forward had to be spent on same categories as regular E&G.

Look for audio or minutes on this.

Communications between BOG and university executives?

University CFOs of universities meet regularly with BOG, amongst themselves. CFOs and other executives. Open and active group, meet regularly to try to get ideas from each other.

BOG will sometimes copy provost and CFO. They often run university while president is “doing their own thing.” They interact mostly with CFO and Provost. May have interacted with Tracy, but likely would not recognize her. Yes, would recognize Bill Merck.

Tim does not recall any dialogue or communication with UCF.

Sid Kytson has had at least 2 meetings about use of carryforward funds.

If you had identified a misuse of funds, how is it handled?

Not sure, have not been through it before. Probably would escalate up to chancellor and president. Ask school to restore funds.

BOB-2 is request for schools to get operating funding for building they are building using non-state funds but want state funds to pay for operating costs.

Interview with Lee Kernek (1pm) (started at 1:10pm)

Witness: Lee Kernek

Date: 9/26/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

been with UCF 11 years, done primarily defense work previously, worked for DOD previously, marketing recruiting at local hospital, spouse was moved to Orlando and she followed. was hired at UCF in current role. was facilities and safety when she took it and has changed a bit over years, included--. initially was over facilities planning & construction (oversees construction) planning. have changed facilities plan over time to break off piece, landscaping. she had utilities, formed sustainability initiatives, police, formed resource management, formed emergency management which went with police when divided. moved small projects under facilities planning & construction. state divides capital and non-capital by amount of money. anything under \$2M in construction is minor project, which used to be separate. all cap projects over \$2M are handled by facilities planning & construction. downtown campus is also a little bit separate. her org chart is changing because reorging currently. ___ oversees construction at downtown campus. bill martin does have both major and minor construction but no facilities operations. duane seamen handles some construction. bill martin has project managers under him. he had 2 assistant/associate directors on planning side/construction side, but changed it so that one person handles both sides of a single project. bill will be university architect, allen will move up to??? bill Merck has been lee's boss since she's been here.

Overview of Cap X projects, how department is involved in and administers them.

Lee's role with capital projects?

oversight for the most part. tries to hire best and brightest and gets them to play well on the same team. get all groups to function well together. she is involved throughout process. often sits on committees that select architects, design firms, etc. they follow BOG regulations for policies and procedures for selections but define their own within that. tried to establish legally defensible process.

How do you get funding?

submit capital improvement plan every year. do 10 year master plan every 5 years. yearly cap imp plan has sections. sections: public education outlay (PECO); capital improvement trust funds; "other state sources" for things not at level to put on PECO, not highest priority, but Kinsley has told them that if

university is planning to spend other sources of money they should put it in this category; non-state sources are things acquired with debt, donor funding, could be aux, DSO, or something else.

BOB form is part of cap improvement plan, it asks how building is going to be funded. one requests anything for which they might ask to bond or take on debt, one asks for plant operations and maintenance source of funds to operate newly built build. Kinsley told them that if they don't know source of money but building will support E&G use, they should put E&G for source of money although that doesn't mean they are actually using E&G funds. she thinks when they put TCH under other state sources, and when they put it on BOB it will say E&G funds. Lee's staff prepares bob and she reviews it.

Not saying that Kinsley told staff to say that you're using E&G funds for capital projects under "other state sources". Lee thinks they intended to notice staff that they were using E&G funds to build TCH when they put it on "other state funds." Lee did not know they could not use E&G funds to build TCH. She didn't know that PO&M was E&G funding. Has asked Kinsley several times what they can and cannot use PO&M for. They don't spend any E&G money on buildings except she learned this year that PO&M is in the category of E&G. She takes a lot of notes. She was in meetings where use of E&G for TCH was discussed. Is happy to share her notebooks. Was in meetings in 2014 in sept where Tracy Clark told Merck that they were using \$9M E&G for TCH was being used and that auditor had already said that was a problem and that might put other amount at risk and might have to repay. Merck said didn't see any other way because had building might put people in danger and needed to proceed. and end of conversation Merck said he would have to advise president.

Go back to the process: have master 10 year plan, yearly CIP plan

TCH moved around on plans, was fairly low on priority. Process of CIP plan: used to be that people would just tell them and those would be put on a list, Merck or president would look at it and move things around at their discretion. list would go to ??? then to BOG. BOG determines what they will send to legislature. Legislature decides funding, governor has veto. Lee's office may get something from BOG staff showing what's funding, and legislature will send information back on what has been funding. will see what's funded for each state institution, and other lists about what's been approved for what's projects. then there is the capital outlay budget which is usually presented to BOT FFC in May of each year. usually Merck and lee will give them that. state appropriations decisions are generally made in April/May. if don't have answers yet, will show what they think on capital outlay budget. may ask BOT to give president authority to make changes. was ok with that until 2015. in 2015 BOG said they wanted greater oversight of that. capital outlay budget that is presented to bog is what UCF wants to move forward with from what's been approved. reflects funding in year approved, not necessarily in year of construction.

trustees can approve project off cycle, but researched that and decided it needed to be shown on may proposal or amend may proposal instead of having one-off approval for something.

next, advertisement in fl admin weekly will go out to solicit proposals. process will include either lee or assistant vp on selection committee. operations directors sits on committee. 2 'customers' (future occupants) sit on committee as well. have to have educational plant survey, planning & design. when

architect starts drawing things there will be payments to them. CM at risk watches architect to determine if plan is constructible.

when it is time to pay people, how does that work?

Before payments there are contracts. Lee has someone on staff who is an attorney who helps with contracts stuff and send those over to GC.

when time to pay, there will be pay application . project managers work with facilities safety and business office. have levels of signature authority. computer system and paper system.

where does the money come from?

when doing project they set up construction account. depending on who is paying for project, various people could be putting money in the account. E&G if you're in chemistry building and they want to renovate they have to put money in construction account. on PECO the money comes in through finance and accounting. have to put money in the construction account before they design or construct. other funds all flow through finance and accounting to get to construction account. facilities & safety business office has accountants that would be able to see through PeopleSoft where funds are coming from.

is that not visible to project manager or lee?

lee would not know, wouldn't have a clue because they use accounting numbers. normally would know generally what kinds of funds are being used for projects especially for major projects. usually she has no clue for the minor projects.

didn't understand E&G funds couldn't be used to build new buildings?

yes, because she wouldn't have use them. lee understood these could be used for cap x: PECO, CITF (capital improvement trust fund), donor money, DSO (direct service organization) money, client money, aux money. they have used PO&M for differed maintenance because Kinsley advised them that those are for that. capital renewal and deferred maintenance usually go hand in hand. PO&M are a subset of E&G funds. She didn't know that because state has always told her they could use them for deferred maintenance. operations maintenance and utilities are two pieces of PO&M. Can use PO&M to renovate, repair, but can't use it to build a new building. Lee has understood all along that you can't use PO&M funds to build a new building???

Shift to TCH:

CH originally listed as renovation on capital improvement plan, master plan. studies done, doesn't recall how they started. seems that someone went in to do renovation and realized issues were bigger. studies identified things like moisture, mold, building issues. at some point larger study was triggered that returned significant issues with structure itself. engineer: "I can tell you your building is still standing but I can't tell you how." no one assigned to project yet because very early stages. then brought in

destructive testing. that's when major safety concerns came up. showed major issues. that's when they contacted state, she talked to Kinsley (around when???) out of cycle of cap improvement plan cycle (which happens July/august but this happened in spring. she asked if there were any funds. Kinsley said no state funds and you're on your own. at that point still talking about renovation so asking for renovation costs. funds that were going to be used for renovation was E&G funds (this might be the conversation she referred to before about the \$9M). also remembers a note about conversation with provost (tony waldrop or Diane chase as interim) and had identified initial funds.

source of funds was what?

source changed over time. provost had identified a certain amount, \$5M of academic affairs money and \$5M of aux money. then later is when conversation happened...

BREAK

did you know prior to April 2018 that E&G funds used to construct TCH? yes, I knew that some were, didn't know until after audit that all funding for TCH was DG

what funds other than E&G did you think were use? didn't really know

prior to April 2018 did you know E&G funds could not be used for construction of new building? no, I researched it sept 10.

how did you know some where used? various meetings where there were discussions

can you turn to your notes? lee has taken notes from here notes about any discussion/meeting about TCH. (from 2014 and 2015)

which meetings/dates gave her understanding some E&G meetings were used for TCH?

February 20, 2014 - Merck, president Hitt, provost attended; any memory of meeting?? Merck said \$10M unfunded (\$5M academic affairs, \$5M aux) \$8M not addressed in that meeting. academic affairs money was probably E&G funds. in this meeting cost is still for renovation. notes say Lynn Gonzalez and Tracy Clark were looking at other sources. (by April of 2014 decision was made to build new building)

April 2014 - phone call with Chris Kinsley telling lee they're on their own. didn't discuss E&G here

8/13/14 - conversation with lee and Merck where Merck said \$10M transferred and \$8M would be FY 15.

JB asked about 4/3/2014 BOT FFC meeting. lee said she and lee presented option sheets. option sheets didn't discuss funds used to pay for each option. she remembers 2014 committee meeting where they approved \$26M in construction, doesn't recall if it was this one. she doesn't recall discussion though on 4/14 meeting about source.

JB asked about 5/22/2014 full BOT meeting. Lee does not recall if she attended that meeting. lee said at this point plan was build new building and then renovate old.

JB showed her doc? probably April or May 2014 minutes or materials? lee does not recall terminology of UCF non-recurring funds. Today does not know that she understands it today. if someone gives an allotment, like PECO funds, non-recurring. PO&M is recurring. so if he says non-recurring then that means he has a source. E&G funds at end of fiscal year carryforward but non-recurring. E&G is recurring generally, but carryforward of E&G is non-recurring.

when board green lights funds, then lee's office starts process and assigned project manager. lee thinks it was Ron lupianez (no longer here), last PM was George hayner. other people heavily involved were bill martin (director), ren daelo (assoc dir). she had no conversations with bill about source of TCH funding.

after ag meeting, lee heard from someone else TCH issue had come up (not from Merck). that's when she called Tracy and asked her how much was E&G and Tracy said all of it was E&G money.

lee thinks she learned about this August 3/4 2018. lee wasn't in conversations about this before this. AG office (Jeff brizendine) sent questions to lee's office during audit. probably lashonda brown-neal, Gina Seabrook, lee kernek. asked lee → needs to find emails. someone was directed to send questions to someone else.

JB: despite questions and responses it wasn't until after exit interview lee knew E&G funds should not be used for construction.

first thing lee did when she heard about issue was call Tracy Clark. doesn't recall anything else about conversation other than that all TCH funds were E&G funds.

probably asked bill Merck about it to. doesn't remember what he said, has to look at notes.

bill told lee he had spoken with new president and he was going to be allowed to retire. lee said I heard you tell president you would take audit ding on this, it would be an audit comment and it would be fine. on 9/27/14 Merck and lee where having one on one (not a review, just regular conversation) in bill's office, Tracy Clark entered and said audit concerned about \$9.8M transfer for construction of TCH. bill expects audit comment about funding "Merck to let president know about audit issue."

she knows bill directed Tracy to pull these money.

Job's impression that bill said enough to know that this was a problem.

Lee: I didn't ask and I should have

JB: did you have your own concerns about what funds were being used and whether it was appropriate or not

Lee: ??did she respond to this??

generally put entire amount of construction project in account up front and then they spend from that. reagents used to require all construction funds be in account before you start. normally with clients

require all construction projects ahead of time because sometimes clients don't pay. bill allowed himself latitude with that. lee doesn't know whether full about for TCH was transferred at the beginning.

3/3/15 - avp meeting bill used to have, talked about colbourn issue, "colbourn threats from faculty." generally "decisions will be made by president, provost, and CFO" so that there would be more people involved in process. pay to play has been issue where they what them to allow contractors to give them money for jobs. they have been adamant about that.

5/20/2015 - with Merck and Hitt and lee (in dr. hitt's office), going over ROI docs and capital improve plan to go to state. "not looking likely will get money from state for colbourn, may have to pull from carryforward balances, may take audit ding, but can't let it wait, but state after us on carry forward". lee understood carryforward balance to be E&G.

JB audit ding suggests it would be improper

Lee never asked about it and never questioned it but didn't. didn't really pay attention because not in her line. lee is a rule follower, will always audit, Merck, GC, Kinsley. audit has said that vp/president can make decision.

Julie: audit means not proper, no shades of proper

lee: thinks there are shades.

JB: if project has been approved, money already in account, why is bill in mid-15 talking about pulling money from other places

Lee thinks bill didn't ever tell the president. also project scope and costs kept going up.

Lee has heard Scott Cole say "we'll just have to take that ding"

11/24/15 - "Merck added money for new programs"

Lee has some "thoughts notes" on this situation, what happened, culture type things.

Will share her notes because she wants to be heard. Because she has been told to be quiet. Piece of correspondence that come out about how they are not supposed to talk. she believes people are lying: dale Whittaker because he has told the world he only operated as provost and Merck did all the finances so really don't know this yet he created Tracy's position as joint position. his resume says he was in charge of all financial types of things.

what about dale's statement he was not aware of E&G funds

lee thinks that's not true and Tracy will have records of that. building program for TCH on page 26. dir of env health and safety showed her. financial appendix that is not clear says funds are E&G. signed by Merck, hit, Whittaker, lee, and others. signed when??

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also believes marchena is not telling the truth. said he was not aware. goes to bog should have asked more questions and said staff told him they were using appropriate funds.

marchena has issues with lee.

Interview with Chris Kinsley (10/2/2018, 10am-11:45 video conference)

Witness: Chris Kinsley

Date: 10/2/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

BOG?

BOG is about 65 employees, he has been there since 06, BOG has been around since 03. structure has 3 units: chancellor (IG, Gen counsel, government relations, trustee management); Academic & student affairs; Finance, facilities, budgeting, HR, institutional, research data, & IT (under CFO Tim Jones). Tim is Vice Chancellor, Chris is assistant Vice Chancellor.

We will treat this as one of our interviews. Info we provide will be included in other information we are gathering. Info may make its way into report we generate in process.

Chris is a CPA, been working for Florida for many years. He covers 2 broad areas. Has unit of 4 employees (5 including him). Encompasses state appropriations for capital projects and projects not funded from state through debt mechanism like bonds or some type of other arrangement. He has other responsibilities, but core of what his office does is facilities.

Walk through process of his interaction with schools, what they submit, etc....?

5 year capital improvement plan is statutory requirement for all education entities. 5 elements (1) projects funded from PECO which is state university source for K-20 capital projects (2) capital improvements trust fund also appropriated by state (3) non-state sources (4) debt mechanism (5) WHAT IS ELEMENT 5?

PECO projects must have specific survey done to be approved for these funds. Survey is to determine whether project is "needed." Survey is formal mechanism where "need" for new facility is established.

New TCH was survey recommended. They followed survey requirements, all the way up to getting BOG's approval. But "normal" for survey approval to happen and project not to get money.

University employees develop 5 year CIP plan which goes to BOT. Trustees have to approve university 5 year plan. Small subset of the 5 year plan goes to BOG. BOG does not get each university's 5 year plan unless BOG requests it. From subset list, BOG will adopt 3 year plan. BOG doesn't see CIP until after it is approved by the trustees. There are 2 areas where BOG provides input: (1) BOG facilitates educational survey process through conversations with university about projects and (2) ???

Typical for a university's highest ranked project to be highest ranked for 4-5 years in a row because can take years for approved project to be fully funded by legislature. Funding is simply not there to get to all the projects on a long CIP plan.

TCH had been on the CIP plan to use PECO funds. From his standpoint, TCH was an authorized project, but UCF decided to use another source of funds for the project.

"The university may use the following und sources to construct facilities." → find this statute he is referring to. Section 216?

He would agree that law is murky, because it doesn't say "though shalt not..." but clear because it says clearly what can be used to fund construction.

The entire CIP plan is not presented to BOG. Handful of projects from each university's CIP plan is presented to BOG. BOG adopts budget request which is a funding request that goes to legislature. Legislature decides what it wants to fund. Governor can approve or veto funding for each project.

Can be confusing because if request is for \$50M, legislature may only fund \$20M, then have to come back next year and request more funding. Next year could get another \$5M. BOG has to keep requesting funding from legislature until fully funding. could get funding from other sources, scope project back to fit within funding.

Facilities workshop is part of the process of the BOG deciding what will be included on budget request to legislature. Workshops help in determining what priorities are for BOG. Helps sharpen university's project presentations since ultimately legislature is funding body. Universities can adjust their presentation if BOG does not support project before it goes to legislature. Workshops provide universities to use BOG as sounding board for projects.

Watch workshop from last year (UCF begins around 1 hour mark in part 2, lasts about 20 minutes). Presented Building 1. Was asking for \$50M building. State would put up half, school would put up other half. scheduled to be done by December 2017. BOG said didn't make sense because legislature would not approve until. School said they would use the money to build building 2. Merck presented and Whittaker was there. Maybe October 2, 2017. In part 2.

TCH was never discussed as funding request by BOG. It was on CIP plan, but never made it to the short list that was discussed at the workshop.

TIMING?

CIP Plans due August 1

Workshop happens typically late Sept/early Oct

BOG adopts legislative budget request Nov or Jan (depending on when session meets)

Session meets January/February or March/April (rotates, because meets early in an election early)

University president or trustee or leadership, your own government relations person is probably telling you what's happening.

CFO or provost or Chris will put out a high level "here is what the legislature just did". This is usually an informal email blast.

People in facilities management, planning directors, Chris also tries to email them with a more formal announcement.

There is always somebody calling Chris's office who doesn't know what was funded.

DOE is statutorily charged with administration of all state funds. DOE has to post it for university to draw against it. This typically happens in September. At this point university can actually pull down money.

What's the BOB?

BOB is a university system document. Refers to back of the appropriations bill. Has 2 sections. *HE WILL SEND US AN EXAMPLE.* 1 section (no relevance to this investigation) Most projects that use debt are automatically approved by legislature. There are some odd ones that are not automatically approved (grocery store, hospital, etc....). University must get specific funding from legislature to fund these with debt. 2nd section: if university is building a building with non-state money, and wants to use state money for operations, must get prior approval. legislature has not provided any money for plant operations and maintenance for 4 years. No PECO projects are supposed to go on that list. BOB list ought to be for only non-state-appropriated projects that university will request future operations funding for.

***IS THIS WHAT CLARK AND TANT WERE TRYING TO SAY THEY PUT TCH ON THIS???

In 2015, UCF did ask for TCH approval on BOB. Legislature authorized it on BOB. 99% of time legislature will approve BOB requests because it's not

If university says "everybody knew we were building this building" that's correct. No secret that this building was being built. If UCF has used eligible funds source, would have added to projects that were completed for 2018 and requested operations funding for it.

The only reason to have it on the list is because you're paying for a building with non-state funds.

Schools do get confused. They are just trying to be cautious. This BOB section 2 requirement has been on the books for decades. He's not really sure what it signifies. BOB list is sort of a "wish list" schools will submit things with the hope that maybe a donor will come through. The university doesn't have to get BOB approval to build a building from non-state funds. the BOB just makes it eligible to use future state funds to operate the building.

CIP plan identifies how school will pay for project, how they hope to pay for it.

BOG can request specifically for projects to be funded from PECO or CITF. For others, BOG does not tell legislature how they have to fund a project, and legislature can decide how they want to fund requests.

JOB Summary: TCH was listed for many years on CIP, it was never on BOG's short list, was never included in funding request by BOG to state. It was listed on BOB request for future operations funding.

Chris: JOB got it right.

E&G Funds?

That's really someone else's area. Chris has no responsibilities for operational aspects of BOG, but sits between those who handle it so knows a good bit about them.

BOG regulation on E&G spending is very broad.

Speak to Dale and Tim about this.

BOG deals with this in limited detail. Mostly in broad categories.

Who did Chris interact with at UCF?

Bill Merck, Lee Kernek, Gina Seabrook → these are the ones he would have talked to specific to TCH.

Interacts with others on other things. For example, Chris talks to Pittman all the time about bonds and capital leases, but doesn't recall every talking to Pittman about this project.

Large renovations are included on CIP. Chris remembers Colbourn on CIP as renovation but was low down in priority. Talked with Lee a bit about it and he recalls she said they were trying to address it. When they really looked at it, found out it was worse than expected. Chris said he would not recommend state put money into it to renovate because cost was too high. This was about Feb 2015.

Months later, Chris had a conversation with Merck and Kernek and they said that they decided to build a new building and not renovate Colbourn. Chris said put it on the PECO list. Merck said no, we'll use our own funding, but we'll see if PECO funds come through. Chris said you can't have it both ways, it's either a PECO request or it's not. Chris was thinking they were referring to auxiliary funds or other sources like food services, foundation funding. Chris didn't think a whole lot about it after that. This would have been around Sept 13.

They were no longer asking Chris for money. Merck has told Chris over and over again and he felt he had no choice and he thought people were going to get hurt. Merck just felt like he was in the decision on his own because he knew the state would never find any money for it.

Chris agrees with Merck's conclusion that "something needed to be done." The choice in some ways was a good choice, but it broke the law. He feels like there is pressure on the school in this area. If there is a bad building, schools should have some process to remedy the situation. There isn't a statutory mechanism to address this. There was a problem and he didn't see a clear solution to the problem. He is not condoning what Merck did but can see a little bit of what led him down the path.

REQUEST THE EDUCATIONAL PLANT SURVEY FOR UCF, COLBOURN HALL WOULD HAVE BEEN ON IT. → CHRIS WILL SEND TO US.

Educational Plant survey is ultimately submitted to BOG. Although BOG has some involvement in helping schools do an educational plant survey done for a building.

Everything requested from PECO should have had educational plant survey done. Three other sections (capital improvements or CITF, bonds, other) don't have a survey.

CIP category includes "other state sources".

Schools will use that bucket for things that are not eligible for PECO.

Back to Conversations with UCF Staff?

Doesn't recall other conversations with them about where they ended up getting the money.

Chris feels like using E&G funds for facilities is an issue of an unauthorized transfer, not an issue of facilities. It was not an authorized transfer.

If the legislature had funded the project from general revenue, ok. But UCF took that decision away from the legislature and made the decision themselves.

Chris does not feel misled by UCF from facilities standpoint. He does feel representation that dollars were needed for educational purposes was not proper because they used those funds to build a building.

Witness: Chris Kinsley

Date: 11/15/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG. Robert Gallagher, PWC attended by phone.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

CIPS (Reports Tab D3):

They get the CIPs electronically and in hard copy with a cover letter from the president with contact information for Bill Merck for any questions. They also get CIP-2s which include more detailed information. On the CIP, the category for "other state sources" are projects that the school expects to not be funded by PECO or may not be eligible for PECO. For example, the BOG requires PECO projects to be recommended by the survey. The section is really for informational purposes. The same is true for "non-state sources." The BOG wanted to get an idea of what may be coming through from other sources. There are not really any strict rules on what should be included in "non-state sources." The BOB-1 and BOB-2 along with the CIP-3 and a series of documents are all submitted together. The CIP-1 is no longer used. They review everything and then take it to the BOG who then reviews before being sent to the legislature. The BOBs are not "whittled down" like the PECO list because no state money is being requested and the project may not be completed. "We are asking for permission to ask for permission." Therefore, the BOBs are not scrutinized nearly as closely as the PECO list. In hindsight, it should have raised a red flag to see TCH/CH listed on the BOB-2 with E&G as the fund source. And for PECO and CITF projects, they do not belong on the BOB-2 because they go on the front. UCF does this the most, but other schools seem to understand the instructions better. UCF's BOB-1s are longer than they need to be. Mr. Kinsley's office has explained to UCF on multiple occasions that the legislature has delegated approval for many types of projects and those do not need to go on these forms. BOB-1 is asking for permission to issue debt. BOB-2 is permission to ask for operating dollars. The amount listed on the form is viewed as the upper limit for what the school has permission to ask for if the project is completed. The GSF determines the amount of funding that can be requested when the project is completed. PECO funds should not be requested for reimbursement of funds already incurred on a project. PECO funds can be for reimbursement, but "those have been very exceptional and very transparent." Mr. Kinsley can only think of 1 project in the entire system where PECO funds have been approved for reimbursement. However, there is not a clear bright line rule that the PECO list is only for projects that have not been started. Mr. Kinsley recalls speaking to Mr. Merck about Interdisciplinary Research and Incubator Facility because the project was almost completed when the requested PECO funds on the 2018-19 CIP.

Mr. Kinsley does not see or approve the Capital Outlay Budget. He did not realize the schools were still completed Capital Outlay Budgets.

Mr. Kinsley is aware of the building programs, like the TCH Building Program, however his office does not receive or review those.

Ms. Mitchell's Assumptions:

The \$2M cap applies to new construction costs and renovations, but it is determined on a case by case basis.

There is no cap for furniture, fixtures, and equipment, regardless of whether it is a new or existing building.

In general, E&G should not be used for planning and design, but some levels of pre-pre-planning are permissible.

Generally, there is a \$2M cap for the use of E&G funds for repairs and renovations. However, you can spend \$3M on painting the entire campus, replacing carpet with E&G so there are exceptions.

There is a statutory procurement threshold of \$2M.

Witness: Chris Kinsley

Date: 11/16/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Mr. Kinsley "would think Lee knew that operating dollars, carryforward dollars could not be used to construct a new facility." If her perception was that operating or carryforward dollars could be used, he questions why it had not happened before. There was no specific discussion that "you cannot build a building with carryforward." However, there was a lot of discussion around how little money was available for capital projects. Lee is not in finance or accounting, so Mr. Kinsley expects if someone like Mr. Merck directed her to do it, she may not "argue with him, chapter and verse."

Polytechnic got statutory permission to use carryforward for build out their campus. There has been much discussion around the risk that the legislature may stop providing PECO if they are permitted to "use carryforward for anything."

The FSU Turnbull conference center was constructed with interest earnings from their E&G funds. There was no statutory prohibition against carryforward, and the legislature did not choose to amend. The BOG changed their regs to clarify E&G interest earnings may not be used for construction. This may have been around 2007.

CAFA is the Council for Administration and Finance Administrators.

Witness: Ronnie Korosec

Date: 12/13/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP, by phone.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Ronnie has been at UCF for 18 years. She began as an assistant professor and has worked her way up through various administrative roles. She joined the Provost's office as a faculty fellow, was hired as assistant vice provost, associate provost, most recently Associate Provost and Chief of Staff for Academic Affairs. Dr. Whittaker moved her into the Associate Provost role as a result of his reorganization shortly after he started as Provost. She became Chief of Staff in 2016.

Her responsibilities have morphed a lot over the years. She was responsible for collective bargaining. Most recently she was functioning more as his chief of staff. Things like space planning, following up on ???, faculty resolutions, etc.

Tuesday Morning Meetings

Ronnie attended the budget chat meetings with Dr. Whittaker. 75% of the time these were in Dale's office, occasionally they were in the fish bowl, a conference room in Bill's office.

She does not recall when she started to attend them, but she certainly participated as chief of staff. She may have been attending as early as 2015 though.

Lisa Jones, Associate Provost for Strategic Planning, also attends these meetings. Lynn sat in those occasionally, but towards the end it was more Christy Tant instead of Lynn Gonzalez. When Dale reorged and brought Ronnie in, he shifted Lynn out, split Lynn's role and gave the budget role to Tracy Clark.

The core members were almost Tracy, Bill, Dale along with support staff. Other members varied based on the topic of the meeting.

Tracy as the one who organized the, and she called them BOG Jr. meetings. Ronnie called them budget meetings.

E&G Funds

Ronnie was not familiar with E&G funds because budget was not really her forte. She would usually defer to Bill and Tracy and they would have to frequently define what they were talking about. Dale

relied on smart people to let him know what he needs to know in a meeting. Tracy and Bill were definitely the experts on that. She would not even think to question it because Tracy and Bill spoke with such authority.

Colbourn Hall

She remembers discussions of Colbourn Hall during the budget chat meetings. There were a lot of complaints about CH over the years. She remembers the union representing the faculty was complaining about the quality of the building. They initially determined there was nothing wrong with the building, but they determined over time it was going to be cost prohibitive to renovate, and so it was better to have a new building.

Bill and Tracy tried to come up with a plan. Original plan was to build another building that would share some systems with the original. Then eventually they decided to build a new building to take the place of the old building.

She remembers the frustration of the people at the table around not having money. She recalls a meeting where Bill and Tracy found an alternate way to build the building. Dale was very excited because there was so much frustration before. She does not recall Bill saying "we are going to use this type of funding". She recalls a "cobbled together" approach. She thinks they freed up resources from an area that they were holding for something else and they decided to use it for this. She does not remember where they said it came from. They were excited and happy about it. They were "very comfortable with this way of funding" the project. This meeting was in Bill's office.

She does not recall the term E&G. Even if the term E&G came up, she would not have raised her hand to say "you can't do that." She compared it to Scott Cole's legal expertise, that she would not correct or question him on a legal issue. The same applied to Bill and Tracy, she would not question them on budget questions.

She thinks the frustration was due to lack of PECO funds. But there was also frustration because they wanted to do so many things and had to choose what not to do in order to take on certain projects.

The first time that she heard there was a problem was when the announcement came out that they had done something wrong. She was surprised because of Bill and Tracy's comfort with it.

Trevor Colbourn Hall

Her involvement was very limited with TCH. She wrote emails on behalf of Dale. The programming for TCH was done by Lee Kernek and Joel Hartman. She attended a meeting with the College of Arts and Humanities early on regarding space planning in the building.

2015-01-13 FW New Trevor Colbourn Hall

She recalls attending these meetings. Lee Kernek did not attend those meetings typically. She may have sat in them from time to time at Bill's request. Lee was not a standing member.

2015-01-21 07-22AM FW Colbourn Hall

Dale copied Ronnie for tracking, Lynn because she still covered budgeting, Diane because she was senior executive vice provost. At the time, CH was not that big a deal. Dale met with the president frequently. She remembers Dale telling him that he did not ever want the president to be surprised by anything.

This email did not necessarily coincide with the news that Bill and Tracy had a way to build the building. Ronnie thinks she remembers Bill and Tracy's excitement about figuring out a way to pay for it happened before the meeting referenced in this email because they would not have approached Dr. Hitt without a way to pay for the building.

2015-01-21 07-35AM RE Colbourn Hall

It is typical for Dale to designate Ronnie as the point of contact so that she would have been kept up to date on what was going on so she could track it.

At that time, Ronnie believes Diane Chase had ownership over space and when she left, space rolled up under Joel Hartman.

2015-12-14 FW T Colbourn Hall

At the time of reading the email originally, Ronnie does not recall it raising any red flags or ringing any bells. She recalls having offices of over 100 square feet was good for the union.

2016-05-23 RE Trevor Colbourn-Colbourn Hall Meeting Results Summary

She did not attend this meeting, because she is copied just for tracking purposes. Lee Kernek, Bill Merck, Joel Hartman, Christy Collier, Dan Tarcynski would have attended this meeting.

Jeff Moore is the Dean of the College of Arts and Humanities.

UFF is the United Faculty of Florida, the union that Ronnie references earlier.

Ronnie participated in the FBC as staff, she is not a voting member. She believes TCH was listed on one of the spreadsheets at the FBC as a project that was funded.

Even if they were told they were using E&G money, Tracy spoke with such authority, she is not sure that anyone would have questioned what she was saying. Tracy was the firm voice in the room. Even though Dale and Bill were running the FBC meetings, they constantly deferred to Tracy. Tracy definitely ran the BOG Jr. meetings.

AG Audit

Ronnie had no involvement in the audit. She first heard there was an issue when it hit the newspaper. She thinks there was a crisis meeting in the president's office where it may have been discussed but she was not involved in these meetings.

She got an email that Bill was retiring at the end of the year, sent him a note of congratulations. A few days later, she got an email that his departure was effective immediately.

Tracy Clark

Ronnie has been in contact with Tracy by text telling her that she is concerned about her and asked her if she was concerned. Initially she said she was not but Ronnie thinks she is concerned now.

Lee Kernek

No substantive discussions about what happened.

Dr. Whittaker

No substantive discussions about what happened.

It would be impossible for Bill to do this on his own. He doesn't have access to the system.

Tracy is a strong person, she is not afraid to stand up to her. Even though Bill and Dale were running the meetings, Tracy was the go-to person.

Witness: John Lord

Date: Wednesday, December 5, 2018 (1 pm - 1:45 pm)

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

BOT Background

Trustee Lord was appointed by the BOG in June of 2017 and his term runs through Jan 2, 2020. He is completing the term of another trustee who relocated to Atlanta. Trustee Lord does not chair any committees; however he serves on several committees, including the Finance & Facilities Committee. He also serves on CFCFO (involved with medical school) which is not a committee of the BOT. Trustee

Lord met with Bill Merck on September 11, 2018 related to the CFCFO on matters unrelated to the BOT. The meeting ran from 1:05 pm to 2:12 pm. Lord had decided to be cordial with Merck, but did not intend to engage in conversation with him. Merck approached Lord and asked to speak with him. Lord agreed.

Merck said "I'm sure you're aware of this funding thing with the building."

Lord: "I know what I've heard"

Merck then went on to tell him about the "horrific condition of the building" and that Merck and professionals had a view that the building was unsafe. Lord was not asking questions. He was just listening. Merck referred to various issues like concrete blocks missing from rafters. It was a "sick building" that had been poorly constructed. Merck said that he had made the decision to use this funding challenge from varying pots (Lord's words, not Merck's) and that it was the right decision. Merck had no remorse and he was certain he had done the right thing. Lord does not recall asking any questions, he just listened.

Lord believes Merck worked at another university prior to coming to UCF. Merck mentioned having conversations with Tallahassee regarding the funding of a building and that someone said to Merck that UCF was not supposed to be large but was supposed to be small (around 10,000 students). Lord believes Merck shared that with him to suggest that historically there had been an adverse relationship (between UCF and Tallahassee). Lord viewed the conversation as Merck being anxious and upset about what was occurring and Lord "was an ear." Lord sat and absorbed what he said, it was not about Q&A at all. The conversation may have been 10 minutes, or not even that long. Lord viewed it as a "justification from one guy to another." The conversation was at the UCF Medical Building on University Blvd and Quadrangle in the board room of a physician practice at the medical school.

Reaction to 11/17/2018 Merck Letter

Lord has “no clue” what Merck said to the board because he was on there. He has no recollection of being made aware that improper funds were being used. In years past, Lord was trustee and chairman of a Valencia Community College. From that experience, he is aware of funding buckets, however “for a non-professional it is tough to keep up with that stuff.”

Understanding of E&G funds prior to discovery of misuse of funds

Lord had “no understanding” of it. He was not made aware of it at the orientation meeting the BOG provides for new trustees. Even if Merck said they were using E&G funds, Lord would not understand what that meant. However, he would have certainly addressed the issue if Merck said anything about an audit comment or that the use of funds violated state statute or regulations.

Lord had no knowledge or awareness of the TCH building project at all.

TCH Building Program

Lord had not seen the TCH building program before. He reiterated he had no knowledge that the project was even happening.

Capital Outlay Budgets

He was unable to open these documents.

Lord has served on a lot of boards and there is trust between the executives and the board members.

He did not know Merck prior to joining the board. He “did not have a bad relationship with Bill.” He “had no relationship, really...” When Lord joined the board of the practice corporation mentioned above, he reviewed some financial information that he just didn’t understand. When he “threw out some questions,” he got a “less than satisfactory response” to his questions. It was along the lines of “you new guys come in here, but we have got this under control” (not the exact words of the conversation, just Lord’s description). Lord and Merck were friendly but Merck irritated him. Lord thinks that he was just there at the moment when Merck was looking for someone to say “hey I’m not a bad guy.” Merck did

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not say that others above him had approved it, instead he said "I made the decision." None of what was in his letter was said to Lord.

Witness: Tina Maier

Date: 1/3/19

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP. Via phone.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Do you remember the email?

No. She checked their database where they log their contacts when people come to them. She does not remember the context of why she came

They get a lot of questions, keep records of them in their MAS. Ronnie stopped by and asked if it was appropriate to transfer E&G funds to C&G account.

C&G is Contract & Grant. Researchers send requests to agencies asking for research funding. Any funding they get would be held in C&G account. Grant terms determine how money will be spent.

Why would E&G be transferred to C&G?

It should never happen. There are grants that require matching, but they have matching accounts for that. We can "claim certain E&G funds as matching."

Did Ronnie or Tracy respond to this email?

She can only search back through 2017. Will search archives after the call.

Audit finding?

Her office would make the audit finding. Their recommendation most likely would be to repay that money.

Witness: Marcos Marchena

Date: 11/14/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Background?

Mr. Marchena joined the Board in 2011. Served on Finance and one or two other committees, but he only chaired Finance. He was asked to Chair Finance in 2014 and served in that capacity until July of 2015 when he became Chairman of the Board.

There is an orientation when you become a board member. The staff conducts the orientation, which covers various topics including the essential facts of UCF, Board makeup, responsibilities, annual budget information. In 2016 or 2017, he did a Board retreat at Fairwinds because he could tell how little the Board members understood about the budget and the budgeting process. A few members asked for more details and Mr. Marchena hosted another retreat where they went into more detail. Mr. Merck, Clark, Kernek, and perhaps others participated in the retreat. Marchena believes there are written materials although it was likely "fairly skinny." He does not believe the orientation covered types of funds.

As FFC Chair

When he became chairman of FFC, he sensed the staff was accustomed to creating the agenda and presenting the items at the meeting. Mr. Marchena serves as outside counsel to a government institution and was familiar with the concept of a board chair being briefed in advance of the meeting. Mr. Marchena began asking enough questions during the committee meetings such that Mr. Merck began to brief Mr. Marchena in advance of the committee meetings. Occasionally Tracy Clark, John Pittman, Lee Kernek or another staff person from Mr. Merck's office joined the briefing call. It was customary for the committee to meet once in between board meetings and the morning of the board meetings.

Mr. Marchena agrees Mr. Merck emails "very little." Mostly "it was telephone calls."

As BOT Chair

BOTs came into existence after a period of time where university presidents interacted directly with BOG. One of Mr. Marchena's early goals as BOT chair, was to clarify the delegation of authority to the president. Mr. Marchena met regularly with Dr. Hitt, interacted frequently with Mr. Schell. Mr. Marchena continued to interact with Mr. Merck because it was clear Dr. Hitt had a great deal of confidence in Mr. Merck and that he had the "run of the house" on the finance side. These interactions

with Mr. Merck were ad hoc, once-in-a-while meetings. Mr. Marchena had very little interaction with the provost.

Mr. Marchena shared a story about a request that came to him for air-conditioning a practice facility for \$7-8M. When Mr. Marchena said no, Mr. Merck (?) appeared to suggest that the staff could move forward with just the president's approval. When Mr. Marchena asked if Dr. Hitt believed he could move forward with such a project without Board approval, Mr. Hitt shrugged his shoulders and said "they tell me what I can do" (?). In January of 2017, there was a thorough revision to the delegation of authority to the president. Prior to clarifying the delegation of authority, Mr. Marchena was told that the president had the authority to approve any project related to the "reputation" (?) of the university.

Mr. Marchena remembers discussion when the staff was presenting the CIP that this was a list of "all the possible projects" they could do, not necessarily all the projects they would do and that if you didn't have a project on the list there was no way it could be done even if it was approved. The projects higher up in the list they would discuss in detail, but projects further down in the list were not discussed thoroughly. If a project required any kinds of debt, it was always brought for approval.

Marchena's understanding of E&G funds and restrictions

Mr. Marchena had no really understanding of E&G funds and restrictions although he had knowledge of colors of money in other contexts. The staff are "so meticulous" about not using a "red dollar in a green bucket" that Mr. Marchena never thought they would misuse funds. He had no understanding of carryforward and the concept was not covered during either of the retreats he hosted as BOT Chair.

Mr. Marchena has now become very knowledgeable about colors of money but a "normal board member should not have to" put that amount of time into it. He believes the board should be able to trust the staff.

Mr. Marchena's understanding was they were using "throw-off from auxiliary services" to fund this project.

Reports:

Mr. Marchena is familiar with the CIPs, and he is sure he has seen the BOBs before, but does not remember having much discussion about any of these. He is not familiar with the purpose and explanation of the BOB-2 as a list of projects the university is asking for funding to operate that have been built with non-state funding.

Regarding the capital outlay budget, when he started he felt projects could be approved by the BOT on the capital outlay budget, but the president could make changes in whatever way he wished. When they approved the capital outlay budgets, they were approving a list that was required to be sent to the BOG under a statute or regulation and that if they did not include a project on that list, they would not be able to move forward with those projects during the year. TCH and CH would both appear on the capital outlay budget during the time when they planned to construct TCH, move CH occupants into TCH, and

renovate/rehab CH. On the Capital Outlay Budget FY 2018-19, TCH and CH Demolition is listed under PO&M. PO&M is not capital maintenance.

CIPs, BOB-2s: CIP 2015-16 to 2019-20 reflects TCH with funding source as E&G. Mr. Marchena does not recall seeing this previously.

BOT Meetings:

Mr. Marchena does not have independent recollection of conversation about this particular project's funding. But he can say that every time a project came up where we were not going to receive state funding, he would ask Mr. Merck, and many times President Hitt, "are you guys confident you have the right funding for this." Early on before he understood the differences between the funding sources, he would ask "where is this money coming from?" Mr. Merck's explanation would say, "the university charges a fee on all of the ancillary accounts, there was interest from those accounts...." Mr. Marchena would ask "those accounts throw off that much money?" Each time the answer was yes.

D. Hitt had a "great deal of trust in Bill's ability to bring the right funding forward" for a project

Tab 1: 4/3/14 FFC Meeting

Mr. Marchena does not recall the specific conversation but believes "they would have brought a \$20M project to us.

Tab 2: 5/22/14 BOT Meeting

"Non-recurring funds": Mr. Marchena would have interpreted this as throw-off from auxiliaries (interest earnings and the overhead charge).

"Out of our hide": Mr. Marchena thinks Mr. Merck "was obviously being very crafty with this language noting that Mr. Merck was quiet after Mr. Marchena said they have the funding to do this. He thinks he was assured then they had the right (appropriate) funding for the project.

Tab 5: 4/22/2015 FFC Meeting

Regarding the dialogue at the bottom of page 3, Mr. Marchena remembered that he and Lee Kernek did not often agree on construction delivery methods and maximizing efficiencies. Eventually this led to Mr. Marchena requesting an operational audit of the facilities department which ultimately led to some changes within the department.

Because Mr. Marchena did not understand the specific restriction on E&G, to him, the term "carryforward" would have been those auxiliary funds. Mr. Marchena does not believe a single board member would say they believed the staff was telling the board they were going to use inappropriate funds and that the board would say ok.

Audit Comment?

Mr. Marchena stated that it would “absolutely not” have been ok if Mr. Merck said anything about an audit comment or audit hit. Nobody on the committee would have gone along with that.

Mr. Marchena has no recollection of Mr. Merck or anyone saying they were going to use E&G funds or that they were going to use restricted, unallowable funds. Mr. Marchena built his career on his reputation. Doing something like this is not something that is “even in the realm of possibility” for Mr. Marchena because of how seriously he takes his reputation.

Mr. Marchena is not familiar with the TCH Building Hall Program. Regarding “University Funds” on page 57 of the TCH Building Program, Mr. Marchena believes someone was being intentionally vague here.

Mr. Marchena missed the auditor general exit interview. This was the first exit interview he missed since being chairman. Mr. Marchena learned of the issue through an email from Robert Taft. Mr. Marchena called Scott Cole regarding another issue from the audit report. Mr. Marchena’s initial reaction about the TCH news in the audit was that someone had made a mistake and it would be cleared up. Soon after he called Grant Heston, Mr. Whittaker eventually called Mr. Marchena. Shortly after Mr. Whittaker took some time to look into the issue, Mr. Whittaker called Mr. Marchena and expressed that there was a serious issue. He got another call from Mr. Whittaker saying that the BOG was very concerned and that he was trying to figure out what happened. Mr. Whittaker clearly did not know that E&G funds had been used, and if he did know then he did not understand what that meant or the significance of the issue. Mr. Whittaker ultimately said he had talked to Mr. Merck and that Mr. Merck knew what he was doing, that he was frustrated, and he was concerned about the people in the old building. Mr. Marchena directed Mr. Whittaker to determine if there were appropriate funds to replenish the funds that were inappropriately used. The following week, Mr. Whittaker informed Mr. Marchena that they had funds to replenish. Mr. Marchena called an emergency BOT meeting and they “took action to replenish those funds.”

Mr. Marchena ran into Mr. Merck at a political fundraiser early in the process before Mr. Merck took the position that he knew what he was doing and that he knew it was wrong. Mr. Marchena asked Mr. Whittaker “point blank” what he knew. Mr. Whittaker was focused on how the facility would be utilized. The funding was left to Mr. Merck’s team and Dr. Hitt. No substantive discussions with Dr. Hitt, Lee Kernek, or Tracy Clark regarding this, although he has seen Hitt and Kernek since the news broke.

Final Thoughts:

The BOG has directed all schools to certify projects have been appropriately funded. Another school used \$6M? \$8M inappropriately for a project.

Witness: Marcos Marchena

Date: 12/6/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG. Michelle Davis, PWC joined by phone.

Board Budget Retreat

Marcos recalls they spent a lot of time on the first half of the agenda because the board was trying to understand the process of the budgeting. Lee's section at the end may have been rushed.

Slide 6:

He does not recall any specific discussion around "restricted for construction."

Slide 9:

Marcos does not recall any discussion around using E&G funds for TCH.

Slide 47:

Marcos understood "university funds" to be from auxiliary revenues, funds that they had discretion to spend.

Slide 56:

?

Robert Taft - Email

Marcos did not ask Grant about TCH because he did not fully understand the significance of the issue at that time. About a week later, Whittaker notified Marcos that Merck made the decision intentionally.

Whittaker made the decision to allow Merck to retire effective at the end of the year. This was Whittaker's first "crisis" and he wanted to see how Whittaker was going to handle this. Marcos had a call with the chancellor and explained to him that he was trying to give Whittaker time to make a decision. Prior to the emergency meeting, Whitaker told Marchena he would accept Merck's retirement effective at the end of the year out of respect for his 20-something years of service. Whittaker subsequently changed that decision driven by the reaction from the BOG.

Merck Letter:

Marchena is prepared to sign an affidavit or go under oath and attest to the fact the Bill never disclosed that he was going to use inappropriate funds for TCH.

“UCF non-recurring funds” - this was not a term any of the trustees would have understood to mean anything from an inappropriate source.

Final Thoughts

Marchena described the Nursing building, that the staff did not have the money for the building.

Witness: Bill Martin

Date: 10/3/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Architect by training, graduated UF in architecture, practiced architecture in Atlanta. Moved back to Orlando in 08 was still doing architecture. Wanted to do higher ed arch work, found one in Orlando. Began working on UCF projects with that firm. In 2014, started at UCF associate director of design in facilities planning reporting to Bob Mason, Bob announced his retirement of April 2015 and Martin became interim Director.

Martin's team facilitates and manages all design, planning, and construction on campus. From small projects to large. His group is not over operations. Renovations can fall under Martin, but there is a gray area in renovations where some may fall under operations. Typically large renovations fall under Martin, but really depends on the specifics of project. Operations focuses more on maintenance.

Martin has two direct reports, associate director of design (Renwick Daelo) and assistant director of planning (Suzie Hudson). Also has a support person, Cheryl Colvin, who reports to him.

Capital Projects?

Kerneck is really heavily involved in capital projects. She work with Merck and Hitt prior to establishment of Facilities Budget Committee (FBC). FBC was created by Whittaker when he was Provost. Martin thinks FBC improves the process because it gets more people involved.

Planning side of facilities planning and construction has been very nebulous until they hired Suzie. Prior to that there was not a dedicated person to look at planning.

Martin has not really been involved in process of approvals with BOG. That has really been Kerneck and Seabrook. He has helped write narratives explaining need for projects, but not involved in ranking of projects or determining what needs UCF has.

Types of funds?

He is aware of PECO funds and CITF (capital improvement trust funds). PECO funds are funds they request for new projects every year.

His department follows what projects get submitted. CIP list has everything but specifics projects they submit to BOG is for PECO funding or CIT funding. Other self-funded project like Research 1, TCH, his team is never asked to verify source of funds. His role is to execute project.

E&G Funds?

Before the news broke, Martin was aware of funds called E&G funds, but was not aware of what they could be used for. E&G funds were not discussed in his department as an available funding source for use for his projects. When his group is told that the fund source is university funds, his group does not discuss the source.

Martin is not a member of FBC but plays a support role. Attends some meetings, has helped prepare materials in support of it. He does not recall specific discussions of funding sources for projects in FBC meetings.

Martin's personal involvement in capital projects from beginning to end?

For something like Research II: currently has cost estimate and statement of what they want the project to be. Research I was in progress, as part of collective strategic impact plan, UCF prioritized another research building. Martin was asked to put together options for what that building could be. He put together cost estimates with varying size, resources, and alternate location options. Presented this information to the FBC. At presentation meetings to FBC, he thinks there was an assumption that they were going to request PECO, but doesn't recall talking about alternative projects. FBC does discuss projects that will be funded by sources other than PECO.

FBC meetings produces a document → Martin will provide us with the most recent one.

There was a 2-day retreat recently where there was a "wish list" form for UCF deans → this meeting produced 2 main priorities which were Research II and another one.

Martin has attended working meetings with BOG staff (Kinsley and Bradley). Doesn't believe he has attended any of the BOG workshops.

Capital Outlay Budget?

Martin is not readily familiar with the capital outlay budget. Thinks Kernek would be involved with it. She works with their facilities and safety business office (Lashonda Brown, etc.). Martin's office works with the business office daily. His office puts together scopes of work and minor project proposals.

Business office transfers funds from campus groups to construction accounts, they process requisitions that got to university purchasing/procurement who issues purchase orders which go to contractors. Contractor does the work and then invoices Martin's team. Martin's team approves the invoices and passes them on to business office for payment.

Martin has no involvement in approving transfer of funds. Doesn't think anyone in his department signs off on transfer of funds. Transfers would happen in Lashonda's department who may work closely with finance and accounting.

Martin's interaction with Clark's team includes interactions related to FBC. No interaction outside of this committee.

Martin had limited interaction with Merck on the FBC. Mostly his interaction with him went through Kernek. Has been in meetings with Merck, Kernek was almost always at the meetings. Not recurring meetings, but there have been a number of them.

TCH Specifically?

Martin worked for architecture of record (SchenkelShultz) for TCH prior to UCF. Worked on evaluation of Colbourn hall, referenced a "Rad Tanis" report. Two reports: SchenkelSchultz report and Rad Tanis report. Shortly after finishing this report, he joined UCF.

He thought TCH was going to be paid for with "university funds" along with several other projects. Doesn't recall discussion of what type of university funds it would be. Martin distinguishes university funds from PECO funds. PECO funds are clear, CITF funds are clear. Both are on a list and go through specific approvals. University funds were "more nebulous."

At some point decision was made to renovate Colbourn and add square footage. He and Kernek were most involved in process of developing options and compiling details for options for old Colbourn. Martin thinks this was after the April 2014 FFC meeting. Maybe the April meeting presented the option of moving the occupants of old Colbourn to the originally planned "addition" then renovate the old space. Most of the BOT meetings Martin attended were focused on their Hill Report (assessment of UCF facilities & planning department).

He knew TCH wasn't going to be funded by PECO or CITF. First learned it was going to be E&G funds when Merck called him, Carloss was on the phone, about 2 months ago, maybe August. He asked for breakdown of spending on TCH. He mentioned there was some concern over sources of funding. Martin quickly worked on simplifying a detailed spreadsheet, summarized categories of spending for TCH (construction, furniture, design, preconstruction, etc.). Copied Kernek on the email. Doesn't recall if Merck mentioned E&G on that call. Thinks he learned about it when everyone else did? There was discussion that something was wrong. At some point Kernek told Martin that there was a problem, that

Merck was being investigated. Bidding process documents (for TCH and other buildings) were turned over to state AG audit folks. This was before conversation with Merck, Kernek. Audit did not concern him because his team has been scrutinized quite a bit over the years. He thought focus was how they were choosing their contractors, bidding process. Did not think the focus was source of funds.

Kernek was ultimately the person who told Martin E&G funds were used and should not have been used. He looked up BOG regulation (9.007) to see what the big deal was.

Martin's impression was that Kernek did know use of E&G funds was not allowed/appropriate. Not sure if she knew that was the source of the funds to construct TCH. She seemed surprise to learn that was the source. He remembers looking back at the "Status of projects presentations" and believes university funds were listed each time.

A few weeks ago Martin and Kernek they worked on pulling a list of projects which they sent to Lashonda's team to determine source of funding. Sent that over to Clark and Tant. Martin mentioned BOB document with E&G related to TCH. These would have been attached to BOT meeting minutes.

Kernek is very loyal to Merck. Martin thinks she was looking for documents that would help defend him from accusations. But he doesn't think that we found that. Kept coming back to "university funds."

Martin expressed concern over investigation not only focusing on the what, but also the why. Acknowledged that Merck was wrong, but emphasized Merck was a "good guy" and his reasons were important.

Other options looked at other that?

Looked at temporary space (trailers), which was quite expensive. Space on campus is at a premium. They have 8 million sq ft, 67000. Perdue has 19 million, Michigan has more, etc....other schools.

Culture at UCF is growth, growth, growth. Thinks that is at odds with BOG and legislature because they have not been approving new buildings.

Colbourn is not imminently unsafe, not going to fall down, not a structural issue. But had problems with brick popping of the building which could be a serious issue, potentially risk of fatality if it hits someone walking by. Water intrusion issues, lots of other issues. Operations side was just having a hard time keeping up with needs.

Martin thinks Kernek has very strong opinions. Kernek told Martin that she thought more people than Merck knew about this. Thinks she thought Hitt knew about it.

Regarding other projects on Kathy's table, Martin learned through this process that E&G funding was used for those.

Band building?

Thinks Kernek was asked to pay for a portion of Band building. Kernek gets her own budget for her projects. Perhaps the department (arts & humanities) was funding some. Department was having accreditation issues when this project came up. Accreditation reports were critical because of their facilities issues. There were some safety concerns from their accreditation board. Martin does not know the other sources.

Martin's understanding of definitions?

Minor projects: \$2M construction cost or less

Capital projects: \$2M construction cost or more

END:

Witness: Alex Martins

Date: 11/14/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Martins joined the BOT in November 2013. Chairs FFC since 2016. Serves on Advancement and Nominating Committees. The BOT Chairperson decides committee assignments.

Mr. Martins Understanding of E&G, Carryforward Funds prior to issue:

Mr. Martins has allways understood E&G funds were not allowed to be used for capital projects (construction, financing of new buildings). He did not have an understanding previously of any thresholds that permitted use of E&G for some capital projects. He was aware of the concept of carryforward funds. He understood that carryforward E&G was still E&G and retained the same restrictions. When he first joined the board, he had an orientation. He had a meeting with Mr. Merck and his staff to "bring him up to speed" on all the funds and allowable uses of each. Because Mr. Martins' primary committee assignment was FFC, the majority of his orientation focused on financing. He recalls Tracy Clark and John Pittman likely participated in that orientation. Mr. Martins understood specific funds appropriated by state could be used for capital projects, funds provided by donors, auxiliary funds (parking, etc.).

FFC:

As Chair of FFC, Mr. Martins met with Mr. Merck on a monthly basis to go over items that were coming before committee and to get general updates on items that may come before the committee in the future. Members of his staff may have participated in those meetings. Mr. Merck was more of a "face-to-face" communicator. The only emails Mr. Martins recalls getting from Mr. Merck were reports. He does not recall other emails from Bill. FFC meets more than any other committee of the board. The meet probably eight times a year, before each BOT meeting as well as other ad hoc meetings. The committee's calendar is largely set for the year, but can also have emergency meetings as needed.

Understanding of Process of Capital Projects coming before the board:

Recommendations come from staff to committee first and then to the full Board. All capital projects, regardless of funding source, go to the BOG on the CIP list.

Reports:

Capital Outlay Budget should go to the FFC first for approval and then go to the full Board for approval. For the most part, it does not change between the FFC and the BOT. His understanding is that in the Capital Outlay Budget, they are approving what UCF plans to spend on these projects, provided the funding source is approved.

Typically when each project is finalized, when the funding source is approved, it comes back before the committee and the Board for individual approval. It has been brought to their attention, staff did not always bring the individual projects back to the committee for approval. Mr. Martins understands this should be done for all projects over \$2M, regardless of whether it is new construction or a renovation. There was a delegation of authority about 2 years ago that established this \$2M mark. Prior to the delegation, which projects were brought back to the Board varied because the president had the authorization to make changes regardless of the cost of the project.

CIPs are a "wish list" of all the things they want. Mr. Martins does not recall the BOBs always being an attachment to the CIP, and he specifically does not recall the CIP 2015-16 to 2019-20 BOB-2. The BOB-2 has not consistently been presented with the CIP as Mr. Martins recalls. The staff has "never" gone over the BOB-2 in the committee meeting. Even the CIP is very quickly reviewed in the committee meetings.

Mr. Martins had no recollection of seeing the TCH building program. The "Final Approvals" signature page is exactly they "we when they went through the delegation of authority" process about 2 years ago because a project of this magnitude should be approved by the Board.

Mr. Martins' memory of how TCH/CH evolved prior to April 1, 2018:

Mr. Martins has approved between 50 and 100 different projects in the last 6 years that he has been on the Board so he does not think he would have had a specific recollection of where the funds came from for TCH/CH. When he initially heard E&G funds were used, his reaction was "incredible surprise."

BOT Meetings Binder:

Tab 1: 4/3/14 FFC Meeting

Mr. Martins remembers the general concept that the staff felt it was better to build a new building than to renovate an old building. The item was brought as an informational presentation. But Mr. Martin

thinks that “without a doubt” the project should have been brought back for approval, not as informational.

Tab 2: 5/22/14 BOT Meeting

Regarding item FF-4, Mr. Martins remembers the general conversation about a new building or a renovation. He remembers a general conversation about having appropriate funding to fund this project. Mr. Martins does not recall language of “non-recurring funds.” Today, Mr. Martins understands it could mean excess from auxiliaries. It is a term that was used often. He would not have equated it with E&G because he knew it was not an allowable use of those funds for this project. He has an understanding that E&G funds are not allowable for this “whether it is carryforward or not.”

Mr. Martin does not recall Mr. Merck saying they had to “take it out of our hide.”

Tab 5: 4/22/15 FFC Meeting

Mr. Martins “vaguely” remembers the discussion of carryforward funds (p. 4 of transcript). He assumed it was something like carryforward auxiliary funds, interest earnings. “The assumption was always that they are acting within the statutes they were allowed to act within.”

Recollection of Mr. Merck saying “audit comment”

Mr. Martins does not recall ever having heard that. “We would have all pushed back on that.” “A comment like that we would have all pushed back on.”

Merck, Kernek, Whittaker, Hitt Conversations?

Mr. Martins recalls no specific one-on-one meetings with any of them on individual projects as a committee member. As chair, Mr. Martins requested review meetings with Mr. Merck prior to meetings to be fully informed.

Final Thoughts?

Mr. Martins was “surprised and disappointed” by all of this. The information about the use of E&G funds for this project was not shared with Mr. Martins as a board member. Mr. Martins feels the committee asks the appropriate questions and has a “trust-but-verify” approach with the staff.

Witness: Kathy Mitchell

Date: 9/26/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

After Mr. Burby provided the Upjohn warning, Ms. Mitchell suggested that we stress the same to everyone that we talk to. She asked if she could discuss what we talked about in the interview with the UCF General Counsel, Scott Cole and Mr. Burby clarified that she could not.

Ms. Mitchell's Background

Ms. Mitchell has been with UCF for 20 years. From June 96 through June 99, she worked for the state auditor general's office during which time she audited UCF almost exclusively. When university auditing had an opening, they asked Ms. Mitchell to apply. University auditing is the internal auditing function of UCF. The department has a dual-reporting function. They have standing meetings with the president and they also "report functionally to the BOT audit committee." University auditing has "independence from the day-to-day functioning of the university."

Ms. Mitchell started as senior auditor and is currently the Associate Director of University Audit, managing all internal audits. Robert Taft is the Chief Audit Director and Tina Maier is another Associate Director who focuses on investigations. Ms. Mitchell focuses on audits and management advisory services. Management advisory services includes client auditing which produces a report while advisory services is more like "you come to me" with a specific question and we will provide an answer.

Three weeks ago today (September 5, 2018), Ms. Mitchell became interim CFO because the university wanted to separate financial responsibilities from Bill Merck, who previously had a very large role. On September 5, 2018, the night before the (September 6, 2018) BOG meeting, Mr. Merck said he had spoken with Dale Whittaker and that Mr. Merck would be leaving "sooner rather than later". The next day, Mr. Whittaker asked Mr. Merck to resign. Misty Shepherd became interim VP of Admin & Finance. Ms. Shepherd does not oversee the financial function because that area is under Ms. Mitchell.

Initially Mr. Merck was going to retire at end of the 2018 calendar year. "Bill has done a lot of good things for university" and is known for his "tremendous leadership." He was "praised for thinking outside the box," but he "took it to far."

Org Charts

On Mr. Merck's org chart, his three direct reports on the right are not relevant to the investigation (Maureen Binder, Richard Beary, Curt Sawyer). Ms. Mitchell has spoken to Mr. Merck's other direct reports, John Pittman, Lee Kernek, and Tracy Clark. All three "know what was done" and "they all knew it was wrong." Mr. Pittman is responsible for construction and debt management and his role would have been to ask what alternatives were available in terms of debt funding for the building. Mr. Clark should have asked what other sources were available. Ms. Tant's team would have done transfers.

About 3-3.5 years ago, Ms. Clark's role split when she became Associate Provost (for Budget Planning and Administration) and Associate VP (for Finance). This split caused division between Ms. Clark and Mr. Merck "because he thought she wasn't being loyal to him." Mr. Pittman and Mr. Merck were "shutting her out" of decisions. Ms. Clark and Mr. Pittman currently report to Ms. Mitchell, while Ms. Kernek reports to Ms. Shepherd.

UCF's Process of Building a New Building

The process for building a new building has evolved over the years. Four years ago Ms. Clark and the Provost (Mr. Whittaker) said "we need to get our arms around university funding" and so they established the University Budget Committee (UBC). The UBC was a university-level committee that was supposed to decide what the university needs, what it can pay for, and what it was going to ask the state to pay for. Shortly after, the Facilities Budget Committee (FBC) was created. Last year, they began to invite people to the FBC to present new building ideas. The FBC then ranks projects and present that to the UBC where they would decide what projects to fund. Prior to the current process, it was the "wild wild west." It came down to whoever "could talk to someone and get their project on PECO list."

John Pitman and Tracy Clark are on the UBC, Lee Kernek and Bill Merck would come to meetings. Kathy will get us the rest of the names of the UBC members.

State Audit

The state legislature decides when UCF can have new buildings by giving out PECO funds. UFC may use donor money for new buildings. The state auditor said they "had seen new buildings going up without any names on them and UCF wasn't asking for any money." Ms. Mitchell was not involved in the initial questions from the state auditor. Once the auditors think they have significant findings then they copy Ms. Mitchell's office.

There was no single point person at UCF assigned to communicate with the state auditor general (AG) because that would be inefficient. The auditor may have also sent communications to LaShonda Brown-Neil's office.

When Ms. Mitchel saw that E&G funds were used for TCH, she called Scott Cole, General Counsel. Ms. Mitchell's correspondences with the state AG were around June through August of 2018. At the state audit exit conference, Kathy did not know that there were more projects, in addition to TCH, that were funded by E&G dollars.

Ms. Mitchell began asking the staff questions almost immediately after her office was copied on communications from the state AG office in June or July. She saw this as massive compliance failure. She should have asked Ms. Clark how this happened and “why didn’t she come to us.” Ms. Mitchell spoke to Ms. Tant, Ms. Clark, and Ms. Kernek individually, and she also spoke to Ms. Clark and Ms. Tant together. These would have been verbal conversation because she has regular meetings with them.

Prior to the AG audit exit conference, Ms. Mitchell’s communications with Ms. Tant, Ms. Clark and Ms. Kernek were more informal. Although Mr. Merck is taking responsibility Ms. Mitchell knows Ms. Tant and Ms. Clark “had to know” because she knows what their jobs entail. Mr. Merck accepted responsibility from beginning. Kathy had conversations with Merck in her office. Merck frequently came to Kathy’s office, but never about TCH.

According to Mr. Mitchell, Mr. Merck said “and if I had to make the same decision again I would.”

Tracy Clark

Ms. Mitchell spoke to Ms. Clark individually and in-person about this. Ms. Clark said she “told [Mr. Merck] that this was wrong, that this was not a permissive use of funds.” Mr. Merck told Mr. Clark “that’s what we’re doing.” Dr. Hitt trusted Mr. Merck. Ms. Mitchell does not know what Mr. Merck told Dr. Hitt. Ms. Mitchell thinks Mr. Merck is “falling on his sword and taking responsibility.” In 2012 when all of this began, UCF did not have an integrity line. Ms. Clark said that she did not report it because she did not feel like she had a choice and that if she reported it she would lose her job. Ms. Mitchell told Ms. Clark that she could have come to Ms. Mitchell’s office about it. There were so many people who knew about this, specifically Ms. Clark and Ms. Tant. Ms. Mitchell and Ms. Clark have talked about the idea that “it never ends well for whistleblowers”. Kathy said “as much as we try to protect them, their lives are ruined.”

Christy Tant

Ms. Mitchell spoke to Ms. Tant individually and in-person. This was a one-on-one conversation that took place while Ms. Clark was out for surgery for a broken arm. Ms. Tant felt “completely trapped by all of this. Ms. Tant said she heard Mr. Merck explain that the worse that could happen was an “audit criticism” and that “if they had to they could repay funds from auxiliary interest earnings.” Ms. Tant also felt that she “did not have a choice.”

Lee Kernek

Ms. Kernek called Ms. Mitchell after the September 6, 2018 BOT meeting. She told Ms. Mitchell that she was in the room when Mr. Merck told Dr. Hitt that TCH would be funded from E&G funds and Dr. Hitt said to proceed. Initially, Ms. Kernek said that her office does not monitor the source of funding, but Ms. Mitchell knew that “everything comes to [Ms. Kernek’s] office with an account code.” Ms. Mitchell insisted that Ms. Kernek provide a list of the other projects where E&G funds were used for buildings. Ms. Kernek told Ms. Mitchell that people are not being fully transparent about what is going on. Ms.

Mitchell thinks Ms. Kernek was trying to say that the current sitting president (Whittaker) was in a room where the use of E&G funds for TCH was discussed.

John Pittman

Ms. Mitchell had a one-on-one conversation with Mr. Pittman, during which he said the decision to use E&G funds was a "well-known decision." Mr. Pittman did not say anything about Dr. Whittaker or Dr. Hitt. Mr. Pittman has been the most closely aligned with Mr. Merck since Ms. Clark's position split.

Mr. Mitchell only had one-on-one conversations with Ms. Clark, Ms. Tant, Ms. Kernek, and Mr. Pittman. She did not speak to Mr. Whittaker directly, however she did speak with Mr. Robert Taft (Mr. Mitchell's boss). Mr. Taft was "shocked." He thought Mr. Merck "had more integrity than that."

Auditing focused on the use of funds, rather than the source of funds. Auditing would evaluate whether there was adequate oversight for a project, did the contractor have correct bonds, etc. At Mr. Marchena's request, they had an outside consulting firm look at the TCH project, but they did not look at the source of funds. He made this request because of his concerns about the management of construction projects. He thought that UCF did not have a neutral process for selecting contractors.

Ms. Mitchell did not have any knowledge of the use of E&G funds for these projects. She feels that "If she had known, there would have been options." She could have gone to Bill and asked what was happening and why he was doing what he was doing. She could have gone "up his chain, then to the Board."

Ms. Mitchell had no discussions with Dr. Hitt, but she described Dr. Hitt as "checked out".

Ms. Mitchell spoke with Christina Sierra, interim Chief Compliance Officer, about what they could have done better between their "two shops." Ms. Sierra started about four years ago. Ms. Mitchell said that UCF was the first university to comply with the requirement of having a chief compliance officer.

CIP (Capital Improvement Plan) Process

The top of the CIP is for PECO projects which are projects that they are requesting legislative funding for. Deferred maintenance projects are always the first priority for PECO funds. The CIP is an annual plan.

Ms. Kernek runs that process. The CIP process has become more formalized in recent years with the establishment of the University Budget Committee and the Facilities Budget Committee.

can happen that someone ehars legislature "wants to give us a nursing building" so then they have to put it on the list. if it doesn't go on the list and money shows up from somewhere to build it then can't build it. legislature approves, subject to gov veto. approval goes through ??? def maint might be lump sum but building funds are for specific buildings.

COLORS OF MONEY:

PECO

EG

Aux - funds from bookstore, food services, postal services, housing (revenues are pledged for payment of housing bonds and now will only e used for housing projects); business running for benefit of students or staff and generates funds

Donations

Concessions - greenest

tuition and fees

Recurring: state appropriations (excluding PECO); EG funds are the only recurring state appropriations
Mitchell is aware of

Non-recurring: line item for specific purpose for specific fiscal year; Aux is non-recurring

Carry forward: other agencies have to spend it or lose it; schools are allowed to carry forward unused funds; report unused in two buckets: 1-contractually committed /obligated funds; 2-committed funds where school has planned uses (this is what Mitchell thinks they will take away.

Both recurring and non-recurring funds can be carried forward. Colors/strings are retained even after carried forward.

joey asked about merck quote from ??5/22 BOT meeting?? "cost of new building...in absence of peco funding...construction costs will be paid from ucf non-recurring funds". to Mitchell that meant aux. no prohibition on using aux funds unless debt is bonded.

Back to process:

CIP list is submitted, legisl approves, communicates approval back to univ. someone on Lee's group would draw down the funds. lee would designate a project manager. pm probably not at all concerned about source of funds. draw down funds: Mitchell doesn't know what that means mechanically other than get funds from legislature and put in an accounts. what Mitchell saw for these was transfers from EG. Mitchell thinks they are drawn down centrally and transferred to construction account.

Tracy and Christy pick account codes for transfer. Mitchell doesn't know if they made the actual journal transfer. person who did journal transfer probably didn't know what codes meant.

plant operations and maintenance is appropriate use of peco funds as well so lee is very interested in peco list for this purpose.

Lee understands colors of money and what can be used for what purpose because she has her own buckets of money that she uses for different purposes.

JB: when legisl says what they will fund everybody is watching the list so where did all these people think the money for TCH was coming from? Mitchell thinks broadband capacity sale, chiller unit sales, earnings on investments funds??? So there were appropriate funds that could have existed?

Why didn't Bil use those funds? Mitchell thinks they hadn't cashed in any earnings so they hadn't realized any of those earnings.

Bob: but can't pay bills with unrealized cash

Mitchell: two years ago the cash didn't exist, but now the cash is there to pay back EG funds that were used. Legislature wants to do a lot of other things with those funds and probably feels like we rammed TCH project down their throats.

Mitchell: there is also a capital outlay budget, which is different from the CIP; often funding source is blank?

Mitchell: if project grows beyond approved peco funds from legislature then they have to use other available funds.

JB asked any documents we should request:

Back to 2011/2012 for CIPs and capital outlay budgets. colbourn renovation first started in 2012. global (from kathy's table) may go back before 2012.

CIP list is the same as PECO list.

Legislature issues appropriations bill. There is a back of the bill (Bob list). what they do to protect projects from governor's line item veto. bob list would be way to show tch was never vetoed. dan holsenback and janet owens were involved in this.

UBC and FBC both have committee minutes. John, Tracy, Provost, and Bill were in UBC meetings.

get president meeting materials for BOT and FFC meetings.

Kathy's spreadsheet:

she asked tracy and lee independtly to provice list of all projects funded from EG sources. both provided lists and lists matched. then they looked into which of those projects were actually permisted use.

\$2m threshold, reg says \$2m is distinction bt major and minor rehab renovation project. 9.007 says if over \$2m need to bid for architectural project. if continueing contact, need to bid. if over \$2m may not use EG funds for this purpose → now they are being told this although don't see it in regs.

Mitchell knows can't spit \$4m into two \$2m. what about \$2m that goes over \$100. or working on \$2m project and discover another project have contractor there so what happens.

brand new building → \$2m threshold not relevant, may never use EG funds for new building, but Lee told Mitchell rationale for using EG for Band was that it was an academic building.

Mtichell thinks if they pushed they would have been clear on top projects on her spreadsheet.

Rob asked about "Depts tha will be repaying..." column > why does EG cash pay back aux cash. Can't put EG cash into aux budget. Can put into academic program for that dept which would be permitted use of EG funds.

EG funds can be used for almost any research purpose. they have asked depts. with unique aux needs that can't get EG funds back to let them know. grabbing cash for repayment was immediate, more deliberate about repaying those funds.

Part of the reason Misty left was bc of infighting bt Tracy and John.

legislature asks why UCF is growing so fast.

UCF and all universities have been directed to look back 10 years for misuse of EG funds.

Vicky SHharp in Mitchell's office can query journal entris (for PWC people)

Kathy does not have university issued phone, not reimbursed, deminimus use of phone for email/texting for university purposes. only uses university email for university business. does not have a personal email.

JB reinforced litigation hold.

Reminder to keep convo confidential.

Witness: Kathy Mitchell

Date: 9/24/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG; Julia Chura, PWC.

How did you identify these other projects?

Ran query of all transfers from E&G to construction, sorted them by project, etc. Then she sat down with Lee, Christy, and Tracy and talked through what each project was

Kathy said BOG/GC Vicky Shirley told her that they could spend up to \$2M E&G on a new building. Can always do FF&E with E&G even on a new buildig and \$2M limit does not apply. There was discussion from others in the room that there was a \$2M cap which permitted E&G funds to be used for renovations up to \$2M.

Bob, Michelle, and Joey, went through

There is a statue that says you can use E&G funds for newly approved campus. Kathy knows this was for Poly.

Research I may be called RIEF.

The Capital Outlay Budget is required to be approved by BOT by statute. Not submitted to the BOG. Lee's group came up with the Capital Outlay Budget and the CIP list.

There is an internal facilities budget list that more accurately reflects what UCF really wants next. The FBC is involved in this list

Witness: Mike Morsberger

Date: 12/5/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Mike has been with UCF for 3 1/2 years. He has two roles: VP for Advancement and CEO of UCF Foundation. He reports primarily to the President, but is also accountable to the ???.

He is not involved in the FBC. He has no part in the Capital Improvement Plan.

About 15-20% of funds raised in a typical year is designated by donors for capital projects. These funds are often used for seed funding to get a project going. It is hard to raise money for renovations. He recalls he was clear it would be a "long shot" to raise funds for renovation of TCH. He visited Mrs. Colbourn and asked if family had any funds to contribute. She said no, but that she expected the project to be appropriately handled. Someone, Mary ???, suggested Mike accompany her to meet Mrs. Colbourn when she was going to visit Mrs. Colbourn. Lee Kernek, or a member of her team, may have reached out to Mrs. Colbourn about placing a bust of Colbourn in TCH.

He has no recollection of talking about the project and whether it was a renovation or new building. When he arrived in May of ??? year, he was immediately focused on the downtown campus.

Bill Merck Interactions

He saw Bill at regular VP meetings. He did not have a regular meeting with Bill. He would have a meeting with him about once a month, rarely one-on-one, usually with others discussing projects not under Mike. Often He had meetings with Merck about the ongoing 8 year campaign.

Interactions with Dale Whittaker

Whittaker has traveled with Morsberger on fundraising trips. Most fundraisers are paid half by advancement and half by the deans.

Interactions with Lee Kernek

He knows Lee, but not a lot of interactions. He has maybe 2 meetings with Lee in his 3/5 years with UCF.

3/23/16 Meeting "An initial discussion to determine a sequence of building priorities at the university?"

Mike has no notes from this meeting, but his recollection is whether any of the projects had "fund raising sizzle" and could be good candidates for fund raising efforts. At this time, he was still very focused on downtown. That February or March, his team brought in \$20M in commitments for the downtown campus and perhaps there was an expectation that he could do the same for other projects. He does not recall the details of the progression of the meeting. He does not recall a decision coming out of this meeting. He cannot recall any other meetings like this one with that group of people. Mike's role at this meeting was primarily to determine whether they could raise money for these projects. Looking at them today, he sees a lot of projects that they could not raise money for.

He does not remember whether there was more discussion on the unfunded or funded projects. He only remembers that there were not a lot of projects on the list that were philanthropically viable.

Mike knows that E&G stands for Education & General and sees them as resources that come in through tuition or the state. He really has no understanding of the restrictions on E&G funds until recently as the news of the misuse of funds has become public. Constructing a new building with E&G funds would not have stood out to Mike.

Whittaker's notes from this meeting do not refresh Mike's memory on any other details from this meeting.

Mike had no involvement with the AG audit.

Mike believes he discovered the issue at the 9/6/18 BOT meeting.

He had no conversations with Merck about the misuse of funds after the 9/6/18 meeting.

Or with Dale Whittaker, Lee Kernek, Tracy Clark.

Witness: Meghan Nelson (Meghan Sutter)

Date: 10/4/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Started in June 2013 as an accounting coordinator. Responsible for reconciliations, analysis, financial reporting, gathering data, running reports. Her supervisor is an assistant controller, Megan Carrigan, Brad is over assistant controller, Phillip is over Brad. Wilson Rosario was her supervisor originally. He retired March 2015 or 2016. She did not begin in construction accounting, originally was under someone else but Nelson picked it up when the other person moved to the DSO position around 2014.

Construction Accounting?

for the majority of their projects, The process begins when facilities emails Nelson's group information from Lashonda's office about the project like what department is funding a project, etc. to kick of a project. Nelson's group uses the information Lashonda's group gives them to classify it as capital or non-capital. Capitalization threshold is over \$100k, with the exception of minor thins. If capitalized, recorded as asset, if non-capitalized recorded as an expense. When they get projects, they can tell what the funding source is, whether it is E&G or a department. The first four digits are the department, the last four digits of the 3rd of them is a 7 its E&G carryforward. Nelson takes that information and creates a project number in peoplesoft. she doesn't post the budget until facilities sends them the funding journal. Facilities will prepare a journal entry to move the funds from the department into the construction project, and then Nelson's team posts it.

So: facilities (Lashonda's office) sends an email, Nelson's team sets up the project and sends facilities the construction project account number., facilities sends the funding journal, Nelson posts to the budget. (Posting the journal is not an actual transfer of cash.) There is some back and forth to this set up and it can take a day, a week, a month, longer.

The journals store the supporting documentation in the entry. Nelson is sure that by the time things get to her the funding decisions have been made. She is just the processor who ensures the accounts and numbers (?) are accurate.

Transfer Account Codes?

There is a revenue code which goes into the project, and expense code that hits the department where the funding is coming from.

Nelson illustrated a specific tracking example on the white board in the conference room in response to Bob/Michelle's questions. She responded to a specific question on how her example would work if asked to pull information for TCH.

Nelson was involved in identifying the other capital projects that were done using E&G funds.

Nelson emphasized the importance of accurate entries because "if someone asks me where the money came from" the entries have to be right for her to find that information. A senior accountant does an analysis each month to make sure they are in balance to try to catch errors.

Facilities can charge things to a new construction project account before the budget is funded as long as the budget is there. (?) Only her team adds budget to construction projects. Nelson adds budget to construction projects based on the emails from the facilities (the initial emails referred to above).

For a lot of the larger projects, like TCH, there is a different process. Someone like Christy will come directly to Nelson and email her directly. That supporting documentation will be in peoplesoft. There isn't a fast way to search and pull projects processed through the standard process or this alternative process. They would have to go through the journal entries to find that.

Understanding of restrictions on E&G?

Knew basic limits on E&G, can't be used for food or entertainment. If Nelson saw something that was inappropriate, she would send it back to the journal creator. She did not know E&G could not be used for construction/capital projects. She thought it could be used for any type of capital project.

She is a rule follower, so she feels bad about this because she feels like she could be a detective control.

She found out about the rule in the process of the AG audit. The auditor requested the funding for the project. Someone (??) asked Nelson to provide the funding source for those projects. She didn't think anything of being asked to run the report. Christy was doing a lot of the analysis. Nelson may have given her report to her supervisor before Nelson went on vacation. There was water-cooler type talk about E&G funds being the wrong use. Nelson definitely talked to her supervisor about it.

Brad and Phillip really don't do much with construction. Nelson is really the subject matter expert. It is not uncommon for Christy to come directly to Nelson. Prior, it was Nelson, Christy and Wilson who worked together on this.

When she found out they couldn't use E&G for construction and that there was a \$2M threshold, she contacted her counterpart in facilities (Nester Garcia). He didn't seem to know anything when she spoke to him so he possibly heard it from Nelson first.

TCH?

They had two construction projects set up for it, one for renovation and one for construction. She thought it was weird that they had both going at the same time. Then she was told the renovation project was discontinued.

In the last few weeks, she was just asked to pull the funding sources. She didn't look at who posted it.

She is involved in the FBC, but that's a new process. Prior to that she would just get an email from facilities or Christy would come directly to her. She will ask questions if there is no funding in a project but is not involved in how the decisions are made.

Nelson worked on pulling the data to identify the subsequent projects that were done using E&G funds.

PECO funded projects are handled differently

Initiated by state. Nelson gets 442 reports monthly that shows all the PECO projects. Even after project is approved by the state, Nelson waits until it is "authorized" before she creates projects. Each month she has to draw down the amount of the expenses that have been used. It's done separately because she has to report that amount to the state. Only interacts with facilities on these when she needs a particular ID number to allocate funds.

3 processed for setting up projects: Majority of them, the big ones, and then PECO.

In regards to TCH, a lot of the funding was happening as she was learning the process. For the AG audit, she definitely pulled the information.

There was a recent construction project come in using E&G this week or last week for \$1.1M that she ran back up the chain and Christy said yes it is allowable.

She thinks Rosario is in St. Augustine.

END:

Witness: Janet Owen

Date: 12/10/18, via phone

Interviewers: Joey Burby, BCLP, and Sakinah Jones, BCLP.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Janet started at UCF Friday, June 22, 2018 as VP for Gov't Relations and Associate General Counsel. Prior to UCF, she was at UNF for 24 years, 20 of those years as agov't relations lobbyist.

She found out the misuse of funds for TCH when Scott Cole gave her the audit report.

9/5/2018 Meeting? **Janet later checked her calendar and was at an event all day 9/5 so did not participate in the 2:30 meeting. Her calendar reflects the below meeting on 8/22/18.

She recalls the meeting being early on in discovery of what happened rather than a prep meeting for conversation with BOT because it was new information to her. She recalls being in Grant's office with Scott, Grant saying this had happened, the president came in. She has known Bill for 20 years "in the system." She revered him in a way, thought of him as very knowledgeable. She was really shocked at this. She was thrilled to be in the meeting but was very quiet. Bill came in, was asked about this. He said, "this is on me." He was asked specifically about how this was presented to the BOT, the agenda items describing the source of funds. He said something like he knew if he had been more specific, talked about everything he knew, in detail about the funds, he knew the board would have voted no. he knew what he was doing, that he was presenting it in way that it was likely to get approved." He didn't think it was a big deal, he was likely in shock that everyone around him thought this was a big deal. He had this calm about him, that he thought he did the right thing. he knew the building needed to be replaced, he needed to get it done. He was incredulous that he would be criticized about this, but he knew how to get it done. She remembers him saying that if he had outlined this, it would not have been approved, and that was not his agenda.

She walked out of that meeting when she thought it was appropriate because she was a newer employee. She remembers thinking this is the part where he tenders his immediate resignation based on what he said. She was told later that he would not be at the BOT meeting.

This was an impromptu meeting, not anything that was on a calendar. She thinks it was closer to the time that they found out what happened.

Scott Cole, Grant Heston, Janet Owen, attended. She remembers Dale coming in.

Janet never saw Bill again after this meeting.

Auditor General's report meeting on her calendar on august 22. They probably looked at the report on that day, and it was probably later in that day that they talked to Bill. She has a 5:30 meeting on her calendar.

Witness: John Pittman

Date: 9/26/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Pittman started at UCF in March of 2000 in Auxiliaries, which is a group of departments designed to function independently. He oversaw the bookstore, food services, print shop, as well as a few other businesses. In 2004, when UCF launched the Knights Plaza Project, they began looking for someone with accounting experience to help with the Convocation Project so Mr. Pittman began working with Mr. Merck as an accounting coordinator. In that role, Mr. Pittman issued debt to fund projects. His position grew and evolved with each project. His current title is Associate VP for Debt and Revenue Management. He has been in this role since June 2018.

Mr. Pittman is not involved in most of the new buildings on campus because most do not involve debt financing. If debt was considered for a project, Mr. Pittman would be involved in the project in the beginning. If debt remained an option, Mr. Pittman would continue to be involved in the project. When debt was no longer being considered, Mr. Pittman was no longer involved with the project.

Mr. Pittman now reports to Kathy Mitchell and Misty Shephard.

TCH

Mr. Pittman attends all FFC meetings so he would have heard all of the discussions about TCH. There was no indication that debt was considered for TCH. Mr. Pittman knew they were being "creative about how to pay for buildings" around the time of the April 2014 FFC meeting. Mr. Pittman does not work on the CIP plans but he sees them. UCF has not received funding for buildings for many years. Mr. Pittman knew they were "building buildings with realized gains" so her "knew they were finding ways to do it." He does not know how the school was paying for TCH.

Mr. Pittman has a general understanding of funding and how certain funds can be used. He knows that up to \$2M of E&G funds can be used for renovations. However, facilities handles funding for projects. Mr. Pittman knows that the state appropriates certain funds and that tuition can be used for E&G purposes. Special appropriations may come through the state for a specific purpose and the funds would be restricted to that purpose. PECO is restricted, but PECO funds are not considered special appropriations. Mr. Pittman knows that E&G funds cannot be used to build a new building. This generally known and enforced.

4/3/14 FFC Meeting:

Mr. Pittman remembers several conversations about TCH and whether to renovate the old building or build new one. The “plan kind of evolved over time.” Usually the committee “doesn’t get into weeds on the source of funds at meetings.” Usually the person with the appropriate expertise puts together a “package” that is “in line with the rules.” Mr. Pittman does not “recall getting into specific sources of funds” whether auxiliary, E&G, or another source. He does not expect that the Board or president would drill down to this level of detail. They would just ask “can we pay for it.”

5/22/2014 Full BOT Meeting:

The “meat and potatoes” happened in committee meetings, while full board meetings were just summaries of committee meetings. Mr. Pittman does not recall any discussion of source of funds for TCH. Mr. Pittman does not recall a reference to “UCF non-recurring funds” during this board meeting. Mr. Pittman understands that non-recurring funds are carryforward funds. The only recurring funds are state appropriations. Carry forward funds are leftover E&G funds. Non-recurring funds are E&G carryforward funds. The use of these funds for this project “didn’t catch [Mr. Pittman’s] eye.”

Mr. Pittman declined to speculate on what others thought of the term “non-recurring funds.” Mr. Pittman thinks facilities “got creative” with a way to get this project done. “Businesses think outside the box every day.” He tries to be innovative about how he puts debt packages together and he has done that successfully. People say “wow look at how they got that done.” The same is true for how Mr. Merck puts creative packages together to fund projects. The Board is not going to question the package, instead they are going to believe that Mr. Merck is competent and professional enough to “get it right.”

Earlier this year (2018) Mr. Merck said they would take an “audit hit” on this. The comment was “not something that would register” because every year they “take audit hit on something.” Every entity gets audited, so to hear of an audit comment is not unusual. It was Mr. Pittman’s understanding that with TCH they had crossed the line in what they did.

Mr. Pittman first heard that this would be more than just an audit comment about three or four weeks ago. At that time, Mr. Merck said the chancellor discovered the misuse of funds and discussed it with the president. About a week before Mr. Merck resigned, Mr. Pittman was involved in early conversations about what funds would be used to replace the misused funds because he was often involved in brainstorming on potential funding sources.

Mr. Merck said CH was a sick building and this was the impetus behind renovating and replacing it.

Mr. Pittman was not involved in preparing Ms. Mitchell's list of additional projects that were inappropriately funded. Mr. Pittman was generally not involved in funding decisions. He "heard about band building." Mr. Pittman remembers discussions of E&G funds being used to build the band building. Mr. Pittman also recalls the venue project HVAC replacement. He was not involved in discussion, but he remembers that they replaced the HVAC in that building. Mr. Pittman was not involved in discussions about academic projects. (?)

Following our interview, Pittman called Burby and we Pittman him back from the conference room phone:

Pittman said he had a conversation with Merck between the trustee meetings where they were told about the BOG meeting that was going to occur the following Wednesday. Pittman was in Merck's office for this meeting. Merck said he didn't tell the board about the source of funds because they would have said no. If he had to do it all over again, he would do the same thing. Pittman did not ask any questions.

Witness: John Pittman

Date: 12/7/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

John clarified back in 13-14, E&G funds were used for a lot of things.

John did not know that E&G funds could not be used to fund a new buildings. He found out when all of this came about.

He was aware of some restrictions like you can't use it buy food. He didn't know about the construction restriction.

There was a master list created by facilities and commitments against those. He would track commitments against his division. He was in charge of the budget for F&A. Administration and Finance, everything rolls up under him.

JP Tab 1:

He does not recall this transfer specifically. He authorized any transfer at that time. Today they don't need his authorization for all transfers. The fact that is going to F&A is why John was involved. This was a transfer to the budget office within A&F that John was responsible for. Account is the type of expenditure. The unit rolls up into the division which is administration & finance. These forms would have come to him through an attachment to an email. They are communicating what will happen to a unit in his division. He would reply to the email saying approved. It was just a "formality" because he was in that role.

JP Tab 2:

The amount may stick out depending on the purpose. If is more of an administrative flow, he is signing paperwork. If is a project he is doing, he will be more involved and into the details. \$18M is not particularly unusual for the approval. He depends on the people below him to determine and confirm whether it is right. If it looks odd he will question it, but if it doesn't he will sign it and move on.

JP Tab 3:

John was probably asked to handle it by Merck because John reported to Merck. Sometimes Merck would use John to help with projects in other departments. He was initially hired to "follow the money." If there were finances involved, it wasn't unusual for him to ask John to get involved in it.

JP Tab 4:

The attachment with the blue lines looks more familiar to John. His part would have been more focused on the Band Building. Tracy was really keeping up with the funding of the master list although John was responsible for keeping and updating the document. John was involved with the discussion for the Band Building. He did not have any concerns about the use of those funds for the band building, or that they were using funds for an impermissible purpose.

Were you just told when to change the spreadsheet?

For the Band Building, John was involved in the discussion, but not the other projects

JP Tab 5:

John couldn't say exactly when Christy and Tracy took the list back over. John believes he had responsibility for it for maybe a month or two.

JP Tab 6:

If it was related to facilities, she had a lot of requests for things that were not on the master list so she more than likely sent it to him because she thought he was still maintaining the list.

John does not recall any meeting about the funding for Trevor Colbourn Hall.

More than likely, he would get information to update on the list through email.

JP Tab 7:

John was not making funding decisions. He was recording the commitments. For TCH, the budget transfers flowed through his division. He was more of the bookkeeper of Merck's decisions in a sense. But he was not involved in making the decisions.

JP Tab 8:

This does not refresh John's memory of the timing of things. John is not certain if there is still a master list. If there is a list that deals with central funds, Tracy would keep it. Lee would know the source of funds for all capital projects. If central funds were involved, Tracy would have been involved.

JP Tab 9:

"Audit comment"

John recalls Bill saying this around august of this year.

How could you not know how TCH was funded when you were maintaining that spreadsheet?

He said that before because he could not remember which building had been built with what funds. It's not his area to know how everything was funded.

He was not surprised to hear TCH was built using E&G funds. He did not know the rules tho.

Witness: Dr. Rick Schell

Date: 10/3/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Started at UCF in 87 as chair of english dept, moved through various roles. Moved to current role of VP and Chief of Staff in 99 by Hitt. Duties included liaison between administration of university and BOT, Hitt was secretary for BOT while Schell was associate secretary for BOT. Grant Heston has taken Schell's role. VP responsibilities under Hitt. Met every Tuesday morning from 9-12. Very good, candid meetings. Hitt barely spoke, just listened to the VPs. Chief of staff duties included representing president in various positions/roles.

Hitt has academic background, transitioned through dean, chair, provost roles. Eventually was hired at UCF in 92.

Provost has traditional model for provost/president. Provost is chief academic officer. Several VPs report to provost because they are academic in nature, but had dual line from provost to president. About 80% of the budget is academic and goes to the provost.

Merck attended the weekly Tuesday meetings. Group was cohesive. Schell cannot speak to one and one relationships because Hitt has individual meetings with each of them.

Head of various units reported to Schell with a dotted line to the president. Some people are required by law to report to president. But president could not meet with everyone one on one so some would meet with Schell and if necessary could meet with president.

Capital Projects?

VP meetings were not operational, really theoretical. Operational meetings were just with Merck and Hitt. Would also hear about capital projects in BOT meetings.

BOT has 6 standing committees. FFC is by far the most important. All FFC meetings were recorded. There was specific discussion at FFC meetings about capital projects. Schell attended all the committee and BOT meetings.

TCH?

TCH was in play for several years. He was in that building for 10 years when he was in the English department. He knew for some time that the building was unsafe. Not that it was going to fall down if someone went up the stairs, but if a hurricane came through it could fall down.

It was general knowledge that Colbourn was a sick building. But was not a part of the conversations about progression of plans for Colbourn hall.

E&G Funds understanding?

He did not understand that E&G funds could not be used for construction of a new building. E&G funds are the only funds they get from the state.

There were times when Colbourn was an agenda item at BOT or FFC meeting and would hear about it.

When TCH was being built, he had no idea it was E&G funds. He knew they were self funding it.

Twice a year Kernek would do a presidential level of construction projects. VPs could attend if the wanted. She would go through each project. She would frequently go through sources of funds. One available source was "self-funded". Each project she would at the end say how much it was and the funding source. This happened twice a year. Not formally schedule, just very casual. There was a powerpoint deck but no other materials sent out in advance.

Self-funding was the catch all category. Schell thought there was an awful lot of self funding going on.

Provost: Gary Whitehouse, Terry Hickey, Tony Waldrop, Dale Whittaker.

Provost is a VP so he would attend the VP meetings.

There were a few VPs who did not get along. Rather than arbitrating between VPs, Hitt made Provost Executive VP so that he had someone else who could intercede with the other VPs.

How did you learn about TCH issue?

Learned about it on July 20th when he came back from his Europe trip. Did not talk with Hitt about it. Hasn't talked with Merck about it. Has no opinion or idea whether Hitt was aware E&G funds were being used.

Documents?

Minutes from FFC meeting and recordings. Hitt attended those meetings. Merck staffed it. If Hitt missed it, people would comment on it.

Hitt's Schedule?

We should be able to find public records of Hitt's schedule. Schell kept a copy of Hitt's schedule on his door. Hitt's assistant (Cherepow) would keep/manage his calendar.

Lynn Gonzalez was the provost's budget person but was moved out of that position by tony waldrop and replaced. That happened before any of this was happening.

Misty Sheppard was in foundation prior to her current role.

Hitt was on email a lot.

END:

Witness: Gina Seabrook

Date: 10/4/18

Interviewers: Joey Burby, Sakinah Jones, Robert Gallagher, Michelle Davis, Julie Leftheris.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Has been at UCF 30 years. Has worked in several departments but in facilities planning for the majority of the time. Current title is Construction Specialist, reports to Shelly King, Assistant Director Contracts and Real Estate. Shelly handles more of the contract language. Gina does more of the contract execution. Gina is currently under the Resource Management unit. When they had a reorg, Gina was moved out of facilities planning into resource management. Gina works with Lee Kernek a lot.

Gina handles all the CIPs, 5 year plans, capital outlay budgets; selection of architects contractors. She is not a project manager. She has only been on the construction side for one project. Once contract is signed and executed, it is turned over to construction.

5 year Plan=CIP=are the same!

When it is time to submit the 5 year plan, there is a list (most are a wish list, some are real) that they use to develop the CIP (Bob showed her this). There is a CIP 2 that goes inside the 5 year plan. The CIP is prepared once a year. The CIP is submitted to the BOG first. Things that are not funded in one year are just bumped to the next year. She crosses off anything that is approved (funded). If they get partial approval, she will change the amount to reflect the unfunded balance.

When the CIP is finalized, it is approved and is sent with a letter, the BOB1 and BOB2, to the BOG. BOB1 is DSO projects, mostly athletics. BOB2 is asking for PONM funding (these are the ones that the BOG has to preapprove). Once a building is approved for PECO funding it automatically gets PONM funding. There is no category of E&G funded projects. She doesn't really know the funding sources at the time she is preparing the CIP. There can be projects that they start with other funds but they will put them on the CIP hoping they will get state funding for those projects. CIP 3 is used so the BOG has a more detailed breakdown of where the money is going.

The CIP list is anything over \$2M, it can include new construction or renovations. Her understanding of "capital projects" is anything over \$2M. Over \$2M is major, under \$2M is minor. Major projects are capital projects.

There is also a CIP2 that provides other information than the CIP and CIP3.

Colbourn and TCH?

Initial reason for putting Colbourn on the CIP was to renovate the building. This was in 2013 or 2014. 2013 CIP has request from other state sources for \$7.9 million. (PCE = Planning, construction, and equipment). "Other state sources or university funded" could be university funded, donations. When she does the CIP they don't discuss source of funds, not specific sources. Kernek told Gina to put Colbourn under other state sources.

E&G Funds?

Didn't have an understanding of how other state funds could be used or capital projects. She has never had to do an E&G project.

Knew what E&G meant before this. Did not know there was any restriction on how those funds could be used by the university.

She would only see E&G on the Bob2 which is PONM funding. TCH was listed on BOB2. It went on the BOB2 2 or 2 1/2 years ago. Some she knows what to include, but some Lee's group just tells her to add it and she adds it. The renovation was never put on the BOB2. Nobody asked about why they were using E&G funds to build a new building.

Back to Colbourn and TCH?

She doesn't think Kinsley ever put TCH on the request for funding that they send to the legislature.

Bob showed Gina some CIPs and discussed movement of Colbourn and TCH around various areas on the CIP. Things can be listed in both sections because they are asking for PECO money but it may be done with other funding.

Eventually renovation was dropped from the CIP. There is a discussion that goes on about why projects are dropped. Gina is not involved in these discussions.

Projects that are funded by legislature go on the capital outlay budget. The capital outlay budget goes to the BOT for approval for spending of those funds even though they are already approved by the legislature.

Gina doesn't meet with Kernek or Merck. Lee just takes the documents to the meetings. She attended the university budget committee meeting once or twice with Christy Tant and Tracy Clark, but does not attend other meetings with them. Within facilities, Gina works most with Bill Martin than Lee Kernek. Usually Gina and Lee will work directly to put together the CIP. Lee often tells Gina what changes to make on the CIP.

Gina interacts with Lashanda's office if Lashanda has questions about bills that come in from an architect or someone else and Gina will give them guidance on those types of questions. Gina will give

Lashanda's team the list from the state about what projects have been funded just to give them a heads up about what has been funded.

She is involved all the projects. All were either PECO, CITF, or courtilis (donated funds and the state would match).

Gina was involved with doing the building program for Colbourn. She walked the building with end users to look at the space. A building program should be done for every project in year one on the PECO list, but only for PECO projects.

There was a program document that was started for Colbourn Hall, but it wasn't completed. Gina worked on the Colbourn Hall program document, but not the others. But it is not typically part of her job. The building program document is used to provide a narrative, the history of the building, with new changes. It is supposed to go to the BOG separate from the CIP. When a project goes on the PECO list, a program should be started and then it goes to the BOG when the project is funded.

She provided information to the state AG for Colbourn and TCH and another project. They asked how the projects were funded but she said she didn't have that information so she turned it over to the business office who had no idea so they sent her to finance & accounting who provided the information on funding and she passed that on to the auditor.

Gina saw that the first response to the AG was "university reserves" and the AG asked for more specifics. She thinks Jeff (auditor) took it from there.

Gina wasn't concerned until she started hearing about the restrictions on use of E&G funds. Not sure how she heard about the restrictions. It may have been Jeff (auditor), she knows Lee mentioned it, maybe the business office. She thinks the business office was shocked too.

Lee's reaction: she said that the university told her how it was being funded or what the funding source was. Gina took it as if Lee didn't know, that she was surprised. Gina thought Lee's response was more like she knew E&G funds were used for a project but didn't know they couldn't be used.

Gina never heard anyone say that they knew it was E&G and knew they couldn't use it but they were told to do it.

TCH was not on the capital outlay budget. Gina thinks it should have been although she didn't know at the time that it should have been. Lee told her that they should put all projects on that list that are funded whether university funded or not.

Gina never saw E&G or PECO commitment list.

Witness: Gina Seabrook

Date: Wednesday, November 14, 2018 (3:30 pm - 5 pm)

Interviewers: Robert Gallagher, Joey Burby, Sakinah Jones, Michelle Davis (by phone), Julie Leftheris.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Capital Outlay Budget:

Ms. Seabrook takes what is legislatively approved and puts those items on the list first. It is the same spreadsheet each year. The only part that stays the same is the matching because they have not gotten matching since 2014. They approved in mid- to late-May every year. The documents are due a month prior to the date of the BOT meeting. They are presented first to the FFC and then to the full board. Any project on the capital outlay budge is from the CIP with the exception of the Courtelis section.

Ms. Seabrook understands that the Capital Outlay Budget goes to the BOT for approval. But she is not sure what they use it for after they approve it. She views it as a way to notify the BOT of what was approved by the state.

Ms. Seabrook completes the Capital Outlay Budget and the letter that precedes it that goes to the BOT. She sends it to Ms. Kernek, who reviews it by herself and makes edits as necessary. Ms. Kernek sends it back to Ms. Seabrook who then sends it to Tracy Clark. If the FFC has any questions, they will send those to Ms. Kernek who will usually send those to Ms. Seabrook. Very rarely does Ms. Seabrook get questions on this.

Projects may still be listed there even if there is alternative funding whether they are in the planning stage or have already broken ground on the project.

They list projects under non-state sources to provide notice to the BOT that when UCF gets the non-state money, they plan to do them. There was no discussion of putting TCH under non-state sources.

The Capital Outlay Budget does not go to the BOG. She is not sure if it is or is not a BOG template, but it is a template that has been used and handed down over the years.

The numbers come from the CIP approved the prior August.

FY 2017-18 has PO&M on it to notice the BOT that the projects listed did not get PO&M funding. Those on this list are already built, and are about to open. PECO and CITF approved projects automatically get PO&M funding. TCH project name is "Trevor Colbourn Hall and Colbourn Hall Demolition" because although there are no on-going maintenance costs to demolish a building, that was the official name of the project. PO&M is not considered "capital," it is considered an operating expense.

CIPs

There are instructions for the CIP on the BOG website. For the BOB-2, Ms. Seabrook enters the highest amount because the approval usually comes in at less.

Preparing the CIP begins in February or March because they do a lot to get it completed by August. She starts with the one from the prior year and then makes adjustments according to what has been funded. Ultimately, Lee Kernek pushes the CIP through review by various people and then it will come back to Ms. Seabrook to make any necessary changes. Post-2017, the CIP goes to the FBC before it goes to the President. After the president approves, it goes to the FFC, then the BOT for approval before it goes to the BOG.

Projects go on the BOB-2 two years out, which means that the project is not going to be completed for two years. PECO projects and CITF projects do not have to go on the BOB-2 because those are automatically approved for operating funding. However, Lee Kernek asked her to put them on there anyway

FY 14-15, Intersil Building (in red) is a building where funding was approved but UCF eventually decided not to buy the building so the negative number indicates they are "giving that money back." Dr. Phillips and Mennello project amounts are blank, but it is not a problem for the project amount to be blank.

FY 15-16

FY 16-17, CH/TCH no longer appears on the BOB-2 because it was already requested and approved.

FY 17-18, TCH reappears on the BOB-2 because the square footage changed and so they had to put it back on there otherwise they would have only gotten the funding for the smaller square footage.

Witness: Gina Seabrook

Date: 11/15/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG. Michelle Davis, PWC attended by phone.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Building Programs:

Projects in the first 3-year window on the CIP should have a building program. The TCH Building Program had several iterations because the project started as a renovation and involved over time. Suzie Hudson currently does the building programs. Prior to Ms. Hudson, Pete Newman was responsible for building programs. Pete Newman left UCF 3-4 years go. Between Ms. Hudson and Mr. Newman, Ms. Seabrook worked on building programs. They have various templates for building programs by type of project.

After the program is completed (first draft?), Ms. Kernek reviews it and responds with comments which are incorporated. There may be several rounds of review by Ms. Kernek. Individuals who sign the program get a hard copy to review and respond with comments/revisions. The earlier CH Building Program involved committee of various individuals from around the university Ms. Seabrook worked on the original program, while Ms. Hudson completed the TCH program. The earlier versions were not signed. Only the final version was signed.

Ms. Seabrook believes the building programs go to the BOT for approval and then to the BOG.

Matthew Green usually posts the building programs to the FFC website, however he only posts what he gets.

Appendix C, p. 57:

The funding source table is a template. "University Funding" is a new category that was added about 5 years ago when universities were no longer getting PECO funds and had to come up with their own funding for projects. If a project was going to be funded by auxiliary funds, it would still show "university funding."

Pp. 25-26 of the TCH Building Program:

This portion of the document was completed by Ms. Hudson.

Ms. Seabrook confirmed the CIP-2 and a cover letter is submitted to the BOG in a large packet of materials.

BOB-2-15-16:

Amount for TCH (\$20M) is inconsistent with the ~\$26M shows on the CIP because the \$20M is a typo.

CIP 2016-17

CH and TCH appear in PECO and Other State Sources. Ms. Kernek would have told Ms. Seabrook to put these projects in both places. If a project was funded by auxiliary, the project would be in "non-state sources." The BOB-2 attached to the CIP is the "final" version. Any other versions may be earlier, intermediary versions.

Witness: Bev Seay

Date: 12/5/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG interviewed Trustee Beverly Seay.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Tom Kunis from the BOG selected her for the BOT in 2013. She has been vice chair of education, chair of compliance and audit, has not been on finance & facilities, she was on advancement, has not been on compensation committee. She has attended a lot of meetings even if she is not on a committee.

Trustee Seay received hardly any orientation, lasting maybe an hour. She does not recall any discussion of color of money. Nancy Marshall, from BOT office, conducted the orientation. Bev has the materials and there is a pie chart of the colors of money but no discussion of regulations they were tied to.

Her focus at the university was the Engineering program.

Understanding of E&G prior to finding out about misuse of funds?

Trustee Seay knew of the term E&G, but did not understand the term. Paige Borden spoke at trustee meetings about balance scorecard and would say they had "this much E&G and this much PECO," but never any discussion of regulations. She did not equate E&G with operating funds. She did not know what carryforward was.

BOT Retreat

The purpose of the BOT Retreat was to help them understand more of the finance.

TCH

TCH was "not on my radar."

5/22/14 FFC Meeting

Trustee Seay does not believe she attended that meeting.

5/22/14 BOT Meeting

She would not have known what “non-recurring” funds meant.

Trustee Seay’s expectation of a committee is that they are handling the details of these areas and that the Board counts on the committee to tell them what they need to know. If the committee is satisfied with their own discussion of an item, the Board generally is also satisfied. She meets with audit and compliance monthly. There is not usually any discussion of her reports when she presents items at the committee. She does not recall much about Marchena heading the FFC, but she recalls Martins and he

7/31/2014

Trustee Seay does not recall any relevant discussions at this meeting

Interactions with William Merck

She saw Mr. Merck a lot, he always invited her to Global UCF events and other things. No interactions with him over facilities.

Interactions with Lee Kernek

She want to lunch with Lee Kernek often

7/28/2016 BOT Meeting

She was not familiar with the CIP form at that time (although she is familiar with it now). She also was not familiar with the BOBs at this time either.

Capital Outlay Budgets

She was not familiar with the Capital Outlay Budgets either.

TCH Building Program

She is not familiar with the TCH Building Program. The first time she saw it was when Kernek sent it to BCLP.

Board Budget Retreat Presentation

The retreat took place at the Fairwinds Alumni Center. BOT, Dale Whittaker, John (Hitt??), Bill Merck, Tracy Clark.

She does not recall why operating funds would be restricted for construction.

Slide 9 "restricted cash" - she does not recall discussion of TCH, it was not on her radar

Slide 15 - she does not recall discussion related to E&G carryforward

She does not specifically recall TCH being discussed at all during the retreat.

Slide 56 -

Trustee Seay learned about the AG audit from Robert Taft This would have been the first time that TCH was her radar. She did not speak with Mr. Merck about this. Dale Whittaker called her on the evening of September 5, 2017 and told her that Mr. Merck was taking full responsibility and would retire. She spoke to Lee Kernek on the 5th as well. Lee said Dale and Scott Cole knew. Lee also said she was in meetings where these people were told about the misuse of funds.

Lee Kernek was "against" Dale Whittaker becoming president of UCF. She was also "against" Tracy Clark and Marcos Marchena. Lee Kernek thought the faculty liked Whittaker because he always did whatever they wanted. She expressed not wanting the president job prior to Whittaker being selected, and expressed interest in the position after Whittaker was selected. Kernek was the only person who was negative about Whittaker becoming president. Kernek felt Whittaker was lining Clark up for Merck's position. Whittaker said he sent Clark to Clemson to help Cynthia ??? with the finance piece of her role. Trustee Seay assumes Merck was anti-Whittaker as well.

11/17/2018 Merck Letter

Trustee Seay does not agree with Mr. Merck's letter.

Witness: William Self

Date: 12/11/18

Interviewers: Joey Burby, BCLP, and Sakinah Jones, BCLP. Via phone.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

William Self joined UCF as an Assistant Professor on August 8, 2003. He was previously at NIH and PhD at UF (?). He was elected to the faculty senate by his peers. Faculty senate runs the business of the university with the administration. By Florida Constitution, Chair of Faculty Senate is on BOT. Became Faculty Senate Chair April 2017. Was assigned to FFC right away, then was taken off FFC in his second year when Marchena reorged committees around April 2017.

Understanding of CH/TCH

He applied for and was selected to be one of two Provost fellows. He was essentially part time in Provost's office from late July 2015 through spring 2016. He remembers the focus for Colbourn hall was focused on how small the offices were going to be in the initial plan. Most of the discussion was about square footage in the building.

3/23/16 Meeting

He remembers the 3/23/2016 meeting quite well because it was perhaps his second time in the president's office. He recalls the participants as indicated on Dr. Whittaker's calendar. Bill knows he received a copy of this email with the spread sheet attached. He only said one thing in the entire meeting in the discussion of the golf course.

Bill will send us his additional notes he has from this day.

Bill does not remember a lot of discussion about sources of funds. Instead he recalls a lot of discussion around the use of space for projects.

He knew the difference between C&G (Contract & Grants) and E&G. But he had no idea of any regulations.

He thinks they spent the most time talking about other things than TCH or CH.

He remembers they thought PECO bonding might occur. PECO Bonding - they put restrictions on acquiring debt for capital buildings. they stopped allowing bonding of the PECO funds. They would

aliquot from the PECO money and let you bond from that money. His note on "...that when PECO returns..." refers to PECO bonding.

He thinks someone asked about the whether the projects were being funded by PECO and he

Bill Merck would have been the person in that meeting who would have discusses anything about funding. Bill Merck did most of the talking in that meeting.

He knew about E&G, but did not have an understanding of the restriction.

Bill remembers being in a presidential advisory staff meeting, the last one Dr. Hitt had, and Merk said the audit hit/comment statement. "we are likely to take an audit hit on that."

They talked a lot about the golf course, and band building and the gateway. They spent most of their time discussing the unfunded projects.

He thinks he typed up his notes based on his memory and the documents.

The next time he met with anybody or talked to anybody was the emergency BOT meeting. Bill has had no conversation with Merck sine this day.

No individual discussions with Tracy Clark or Christy Tant although he has been in meetings where Clark and Tant were there, but no individual conversation with them about this.

Also not discussions with Lee Kernk about this.

Reactions to Merck and Hitt Letters

References to Chris Kinsley and communications with bog stood out to Bill. He feels it wasn't that clear exactly what could an could not be used. He thinks the BO documents are "pretty vague."

Bill is

Witness: John Sprouls

Date: 11/15/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Mr. Sprouls has been on the BOT since 2011. He has headed (chaired) the Comp & Labor Committee for many years. He was a member of the FFC for two time periods with a break in between. Staff sometimes briefed trustees individually on some matters in advance of meetings.

He recalls an orientation that he participated in when he first joined the board. He does not remember any training on the colors of money.

Prior to 6 months ago, Mr. Sprouls knew what E&G was, but did not have a lot of knowledge about the E&G restrictions, or what they could NOT be used for. If someone said they were going to use operating funds for a capital project, he believes that would have caused concern for him as well as others on the board.

Mr. Sprouls is aware of a \$2M threshold, however is not familiar with the details. He understood that major capital projects had to be approved by the board and that board approval allowed those projects to "be put into the queue" for PECO. Projects not approve for PECO would have to come back to the board if they were going to be funded from other sources.

Capital Outlay Budget:

Mr. Sprouls is familiar with the capital outlay budget. The purpose of the form was to keep the board up to speed on projects that they had previously approved and update them on the status of these projects. BOT approval of the capital outlay budget signified approval that the list was valid and the order of projects in the list was valid. If funded, projects came back to the board for approval of the contract.

4/3/14 FFC Meeting:

Mr. Sprouls does not recall the specific discussion of CH at this meeting. If Mr. Merck made a comment about taking an audit hit or audit comment, Mr. Sprouls believes he, and others, would have had a big problem with that. He does not recall Mr. Merck saying anything about taking an audit hit or comment.

5/22/14 BOT Meeting:

Mr. Sprouls would have understood “non-recurring funds” to be some type of “one-off” or other funds appropriate for capital expenses. This would not have been a red flag to Mr. Sprouls that these funds were inappropriate. Mr. Sprouls is not listed as an attendee at this meeting.

Mr. Sprouls understood carryforward to be unused, rollover funds. He views carryforward generally as operating funds although he can think of other examples of where capital funds may be unused at the end of a year and carried forward to the next year.

How he learned about the misuse of funds:

Scott Cole called Mr. Sprouls to inform him of what happened and that there would be an emergency meeting. Mr. Sprouls has not spoken to Mr. Merck since this conversation with Mr. Cole. Mr. Sprouls was “shocked,” “floored” to hear about the misuse of funds. Mr. Sprouls had frequent contact with Mr. Merck during his tenure on the Board, however he had almost no interaction with Ms. Kernek. Mr. Sprouls has not had a conversation with Mr. Whittaker about this although they know each other in other contexts. Mr. Sprouls has intentionally not had conversations with Mr. Whittaker about this.

Other thoughts?

Mr. Sprouls is concerned this may have happened in other areas.

Witness: Dania Suarez

Date: 10/4/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background?

Dania started in 2005, assistant to provost at another campus, then dept of nursing, then worked for provost tony waldrop, interim provost diane chase, then provost whittaker. she is currently assistant to new provost Elizabeth Dooley.

When Whittaker started, he hired a chief of staff, communications person and then a team. At the most 10 people reported to him. There was another person who managed his calender who reported to Dania. Front desk person. Assistant VP who does institutional management. also tracy clark reported to provost.

Dania's current title is assistant director of administrative services.

For Whittaker:

For Whittaker, they prepared his day, made sure he had time on his calendar to review information, collected information he needed to review for an upcoming meeting.

Whittaker met regularly with chief of staff. Regular Budget Operations Meeting once a month, sometimes more with a few avps (Ronnie Korosec, lisa jones, others?), bill merck, chief of staff, tracy clark, Christy tant, maybe others. president hit did not attend them. Lynn Gonzalez may have been there. He had regular standing one on ones and a monthly meeting with everyone. they were held in whittaker's office unless he wasn't going to attend in which case it may have been held in merck's office. Dania considered it Merck, Tracy and Christy's meetings. Debbie Cupertino, Dania, Ronnie, and Christine Delert (his communications person) had access to whittaker's email. Dania, Ronnie, Whittaker would all respond to Whittaker's emails.

Starting with Whittaker, Dania started an online email system where they collected certain emails an saved certain materials on a shared drive called Provost Strategy → Daily Update or Daily Files. Debbie or Ronnie can help us get these. Whittaker often takes notes in his own personal notebook which are his. If he took notes on a document or gave Dania or others notes, they would scan them and load them on the shared drive.

Whittaker had standing meetings with Hitt, the agendas would be saved in the same area along with a calendar.

When did you first hear that there was an issue?

At the emergency BOT meeting 2 or 3 weeks ago. when she heard about it, she knew about Colbourn hall, but was not familiar with the issue as it relates to the use of funds. She saw pictures of the report showing deterioration, then subsequent discussions of renovation, then the decision to build a new one. but wasn't paying close attention.

Years ago she heard about deterioration of Colbourn and that they were going to build a new one, but nothing related to the use of funds.

Discussions since issue has come out?

No discussions directly with Whittaker about this. His office asked if Dania had any of his journals. Dania said he had never shared them because then they are "in the Sunshine." Whittaker's current assistant (Lindsey La Chiana) in the President's office asked for access to the Provost shared drive. IT copied the shared drive (Mike Prophete in IT) and gave access to the President's office.

If someone sent Dania or Debbie an agenda or document for a meeting, they inserted it into the calendar entry.

Witness: Robert Taft

Date: 12/5/18

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG; Robert Gallagher, PWC.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

3 types of audits:

1. financial statements (AG serves as CPA for these, while for DSOs they will hire external firm);
2. operational audit (typically done every 2-3 years on fiscal year, scope varies for each audit);
 - a. these can look at a wide variety of things, can look at prior years
 - b. focused on internal controls, compliance with laws, fraud waste and abuse
3. state-wide audit for federal funding, typically financial aid

Final report will be issued with UCF responses. Findings will remain in there with actions for remediating. After final findings, they will do some follow-up. Typically (90% of the time) they will agree with the findings, but 10% of the time they will disagree on something like interpretation of the law. On the next cycle of audits, there may look at whether the remediation h(J??? Legislative Audit Committee) has a "3 strikes rule" which can trigger significant consequences for 3 audit findings on the same issue.

Audit "comment," "finding," "recommendation," are fairly equivalent.

Tab 3 of Tracy Clark Binder (3/30/15 email from Tina Maier to Ronnie Korosec)

Ronnie Korosec is chief of staff for ????. Robert is not certain of the context of this email. People often contact university audit with questions.

Witness: Christina (Christy) Tant

Date: 9/27/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Christina Tant started at UCF in April 2010 as an associate controller overseeing several areas within financing and accounting. She has reported to Tracy Clark the entire time she has been at UCF. Eventually she was promoted to senior associate controller and took on additional duties. Currently she oversees all areas within finance and accounting except the IT group.

When she first started with UCF, many of the staff in her office were non-accountants. Over time, they have added people to her office who have a higher skill set and a deeper understanding of accounting.

Org Charts

Lynn Gonzalez is really under budget and planning on a separate org chart from Ms. Tant. None of the capital budget or capital planning goes through Ms. Tant's office. Instead, capital budget or capital planning goes through Facilities and Safety under Lee Kernek.

Phillip Henson is the director of reporting. He is "another set of hands at management level" available to oversee various areas. Mr. Henson is over general ledger activity, student activities, and travel. His position is "more of an assistant controller position." Mr. Hanson probably knows very little about the activities at issue in the investigation "because he is new to his position and because of performance issues."

The provost's role is to oversee the academic side of the university although some administrators report to the provost. Mr. Tant understood that the authority of university budget rests with the provost.

What is the central reserve?

TCH was funded with E&G funding from the central reserve. Ms. Tant's group tracks commitments made against the central reserve. Unlike E&G, auxiliary unit budgeting activities are based on projected revenues and expenses. With E&G, however, "they know the amount expected from state" and they only project tuition revenues. They try to maintain a central reserve for unexpected expenses and also maintain a list of commitments which they have made against that central reserve. The funds in the central reserve are all E&G funds. Unused amounts not spent by units stay in the unit's carryforward, while the the central reserve maintains its own carryforward.

E&G Funds

E&G funds are to be used “to support the mission of the university.” Ms. Tant knows E&G funds are not for constructing a building and that PECO funds should be pursued for that purpose. She learned of this restriction “through discussions of various issues.” However, E&G funds were used “for a lot of things related to facilities” so she had an understanding that there were actually some legitimate uses for E&G funds in capital projects. For example, E&G funds may be used to replace furniture & equipment in an existing building, but not in a new building because it would be because considered construction costs. Until recently, Ms. Tant did not know using E&G funds for construction of a new building was a violation of state statute.

Within Finance & Accounting, there are varying levels of understanding of the prohibition against funding construction of a new building with E&G funds. Ms. Tant has spoken with Brad Hodum about the restriction openly for many years so he should know. Tracy Clark knows. Although Ms. Tant has not talked with Meghan Nelson about it, she probably knows. Ms. Tant thinks that people understand “PECO is construction & E&G is operations.” But for people junior to Ms. Tant and Brad Hodum, it is not clear whether E&G funds “cannot be used at all for construction purposes.”

E&G funds can only be used for repairs and renovations of existing facility if total project cost of renovation is \$2M or less. This \$M threshold was not relevant to TCH because it was generally understood that E&G funds “were not ok for this project.”

How did this happen and who knew?

The initial discussions of Colbourn pertained to fixing the existing building. Bill Merck was more concerned more about potential lawsuits from people working in an unsafe building than about the funding. Mr. Merck spoke about asking for state funds, but also said that if state funds did not come through, “something had to be done.” Mr. Merck said he was going to take an audit comment on this. Ms. Tant was aware about decision to use E&G funds.

Ms. Tant believes that E&G funds were committed to the project very early on because Mr. Merck wanted to make sure the money would be there when the project began. Although it was known early on to be an inappropriate use of funds, “they felt like they had no other choice.”

Mr. Merck did not try to hide anything. He never said anything like “don’t tell anyone.” Ms. Tant was shocked when she heard BOT Chairman Marco Marchena say that the board was misled. There was a clear understanding from her level up about funding source and there was no intent to mislead the board. Mr. Merck spoke openly about it when it was discussed in her presence. She remembers Mr. Merck say he would take an audit comment. To Ms. Tant, this meant that “someone in leadership knew this was wrong but something else was more important.” Ms. Tant remembers Mr. Merck making the audit comment remark in an FFC meeting, possibly the 4/3/14 meeting. Ms. Tant remembers a “pretty heated meeting with pushback from board about how they are paying for all these projects.”

Ms. Tant understands “non-recurring” to mean E&G. Carryforward is frequently referred to as non-recurring because unused E&G funds are carryforward funds and carryforward funds are non-recurring. They do not refer to the cash reserve in the auxiliary balance as non-recurring.

Budget and accounting knew about the use of E&G funds, specifically Brad Hodum and Megan Nelson. Ms. Nelson is the accounting coordinator who drives journal entries on construction projects. Ms. Tant explained that "E&G as a source of funding for Colbourn Hall is all over her office."

Process of drawing down funds from the state

Each spring the board of governors (BOG) issues a "university spread" which shows the budget from the prior year with changes for the upcoming year and an adjusted state appropriations number. That adjusted number is what they budget from. This allows them to spend money before they receive it. To release money, the state relies on the submission of the BOT-approved budget. The university tracks the cash that comes from the state throughout the year. E&G money comes into a central pot that is collected throughout the year. As departments spend through the year, they generate negative cash. At the end of the year, Finance & Accounting funds that negative cash from the central pot to return the departments to zero.

Capital draws

Ms. Tant does not know a lot about the capital draws. For PECO projects, Meghan Nelson draws down capital funds from the state. The draws are done quarterly based on what was spent in that quarter. The facilities group works with Ms. Nelson to set up a PeopleSoft project, which serves as a cost collection tool for an individual project. Ms. Tant is not "close to that project." Brad Hodum or Ms. Nelson would know more.

Budget Process

When Tony Waldrop was provost, Vanessa Fortier was an AVP reporting to Bill Merck. During this time, Tracy Clark and John Pittman reported to Ms. Fortier. During that time, decisions to use central E&G reserve funds were made during weekly touchpoint meetings between Bill Merck, Vanessa Fortier, Tony Waldrop, Lynn Gonzalez, and Tracy Clark. Tracy Clark began to bring Ms. Tant to those meetings. There was no formal process. Ms. Tant's tracked the E&G reserve commitments that were approved during those meetings. Over time, the participants and frequency of meetings has changed, but the meetings still continue today with interim provost Elizabeth Dooley. It was clear during these meetings that the fund source for TCH/CH was not allowable. Although there were no formal agendas or minutes, these meeting should have been on the attendees' calendars.

Lynn Gonzalez used to go to these meetings, but after Dale Whittaker restructured things, Ms. Gonzalez role moved under Ms. Tant and Ms. Gonzalez stopped going to the meetings. Mr. Whittaker became provost in 2014 or 2015. He may have been at meetings where this was discussed, but the discussions could have happened before his time.

Ms. Clark "led the charge" in establishing the new Facilities Budget Committee (FBC) and University Budget Committee (UBC) because Ms. Clark and Ms. Tant "were always looked at to go and find funding for projects." The purpose of forming these committees was to establish a better financial planning process." The FBC develops a proper capital plan, replacing the 5-year capital plan that Mr. Merck and

Mr. Kernek previously worked on. Ms. Tant described the old 5-year capital plan as a “\$2 billion wish list that Lee wants.” Ms. Tant explained that the capital plan is different than the CIP and that there would have been a line item on the capital plan for TCH with the funds source as E&G. Ms. Tant is a support person for the FBC, putting together schedules for the meetings. Lee Kernek is a member of the new Facilities Budget Committee (FBC).

Accounting

A construction project must be set up and a budget must be approved for construction money to be spent. For some construction projects, the funding source is determined and a budget is established before the project begins. However, with centrally funded projects (non-PECO projects), money is transferred to the project as funding is approved. When PECO money is approved, those funds are distributed over time. For projects funded by a client, all funds must be sent in for a budget to be set up. And for some projects, exceptions were made where a budget could be set up without all of the funds identified.

The accounting system uses fund codes for various transactions. For example, 139 signifies that funds are going to construction, while 614001 includes the revenue source code 001 which corresponds with E&G funds. Carryforward does not have its own fund code and would be coded using the E&G fund code. There is no way to know where something comes from carryforward E&G instead of operating E&G.

Ms. Tant’s office tracks spent and unspent E&G funds by tying them to different buckets, therefore her office would have known the source of the TCH funds was E&G. There are budget entries behind the summary document. Central carryforward cannot be spent from directly. Those funds must first be transferred to an E&G department and then the E&G department transfers funds to a construction account.

Ms. Tant does not have authority to transfer funds out of the central reserve. Ms. Clark or Mr. Merck must approve transfers from the central reserve, and that approval was usually done verbally. Next, Ms. Tant emailed the budget staff, cc’ing Ms. Tant and Mr. Merck, notifying them that “x amount was approved” and referencing the approval source. These emails “authorizations” are saved in the accounting system as support for journal entries. Once a department has budget transferred to their account, they can transfer cash to a construction project.

TCH Transfers.

The process for TCH was different because the project changed over time. As the “numbers went up,” money was continually transferred from central. At the time of the initial transfer of \$700k, the project consisted of only the renovation of old Colbourn Hall. The second transfer of \$9.3M occurred after the FFC approved the construction of TCH, but before the full BOT approved the construction of TCH.

Transfers would have lagged behind the decisions, while the meetings probably occurred in the weeks leading up to BOT meetings. Mr. Merck likely planned what he would discuss at an upcoming board meeting.

The university reports its use of E&G funds to the BOG thorough the Fund Balance Composition Report, which is a template provided by the BOG. The university reports its E&G balance as of mid-august, and commitments against that balance. The schedule separates contractual commitments and commitments which have only been approved through management decisions. Funds committed for Colbourn Hall were reported under the category of "repairs, renovation, and infrastructure." One report will not reflect the full \$38M for TCH. Each report reflects the amount committed for a project less what has already been reported in an earlier year. Ms. Tant's office completes the Fund Balance Composition Report and Ms. Clark reviewed it. Mr. Merck saw the report, but Ms. Tant would have discussed where to report TCH with Ms. Clark. Repairs, renovation, and infrastructure was the only category the project fit into.

Ms. Tant attended BOG budget meetings and remembers one particular meeting led by Kristy Harris where carryforward funds were being discussed. During discussion about deferred maintenance, Ms. Tant "blurted out, we are building a building." Everybody "kind of looked at her and the discussion just continued." This meeting was maybe two or three years ago.

Ms. Tant did not attempt to report the use of E&G funds for CH and TCH because she thought everyone knew. She thought Mr. Merck was openly talking with everyone about it. Ms. Tant was never present at a meeting where this was discussed in front of Dr. Hitt, however she believes Mr. Merck also discussed it in front of Dr. Hitt because that was her "understanding of the way things were happening." Because the decision had been made at a higher level, she felt that she would be seen as "not going along with what the leadership decision was" if she did not go along with it. Ms. Clark told Ms. Tant that this was Mr. Merck's decision to make. Ms. Tant believes Ms. Clark was uncomfortable but that Ms. Clark hoped the worst that would happen was an audit comment and that they would have to find a way to pay the money back. Ms. Tant did not think they were violating state statute.

When asked whether she was worried about retaliation, Ms. Tant responded that she knew using E&G funds for CH and TCH "wasn't right," and that she "didn't think it was ok." She was "aware of the existence of PECO funding for construction of new facilities" and it was "logical to her that construction should come from PECO and not operating funds." She knew E&G was not appropriate because they had another source that was supposed to be for construction.

Ms. Tant spoke to Lee Kernek about budget transfers for CH and TCH, but they did not speak about the source of funding. Ms. Kernek did not attend budget meetings. Ms. Tant believes that Ms. Kernek knew about the use of E&G funds for these projects because it was "on schedules that they work from together."

State AG Audit

Ms. Tant participated in responding to question from the state audit. Specifically, she was asked to look into the funding for Colbourn Hall, Research I, and a third building. Phil Henson put together a schedule with the funding information, Ms. Tant reviewed and modified before sending it on to Ms. Clark. Ms. Clark discussed responses with Mr. Merck before sending responses back to the AG. Ms. Tant also "punted" audit questions to Ms. Kernek and Ms. Kernek would "punt" questions to Ms. Tant throughout the audit. Ms. Tant

Ms. Tant was directed to tell the stat AG "what we did." Ms. Tant expected there would be an audit comment. She did not think it would "get to this point." She expected an audit finding and that they would have to pay the money back. Ms. Tant thinks an audit comment is a "big deal." When the decision was made to use E&G funds, Ms. Tant felt that she "had no choice but to go along with it." Ms. Tant "would never make that decision that an audit comment was ok." She understood that some audit comments were "benign," but she always felt like an audit comment was a "big deal."

Ms. Tant did not "go into hysteria" when the auditors began to ask questions, because she was instructed to be open and transparent.

She believes the university continued to pursue PECO funding for CH and TCH even after they made the decision to commit E&G funds to the projects.

Mr. Merck said that if PECO funding was approved, they would put the money back. If PECO funding was not approved, they would just take the audit comment. They knew the chances of getting PECO funding was "slim."

Ms. Tant does not have a university-issued device and the university does not reimburse her for her bill. Ms. Tant does get her work email on her phone and she sends texts related to her university work.

Mr. Burby reminded Ms. Tant of the document preservation notice from the litigation hold.

Ms. Tant reiterated that she would provide us with budget journals, the supporting approvals, allocation documents showing distribution of budget, who posted the journals, and the BOG meeting where Ms. Tant said UCF was building a building with their carryforward funds.

Ms. Tant suggested we speak with Angie Carloss. She joined the university in last 5 years as Mr. Merck's assistant and has been in that position since she joined. Ms. Carloss scheduled Mr. Merck's meetings, followed up on things he needed, sat in on a lot of meetings (but not touchpoint weekly meetings). Ms. Carloss may have been aware of use of E&G funds, but Ms. Tant does not know Ms. Carloss's level of understanding of E&G funds.

Witness: Christina Tant

Date: 10/24/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Michelle Davis, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG; Julia Chura, PWC.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

The 2/15/2013 email in Tab 1 is about fund balance composition report which goes to BOG. This report is submitted in mid-August. BOG frequently asks for update to that information as of December 31 and provide the update to the BOG in January or February. It reflects how much carryforward they have from prior fiscal year and how they plan to spend it. It is generally a 3-5 year plan. Christy's office prepares and maintains this report. Christy believes that Vanessa Fortier would have approved this report. The report was shared with Bill Merck and with the Provost (then Tony Waldrop), however neither really "combed over" it in great detail. They may have referred to it as a carryforward report. Lynn Gonzalez reported to Provost, Vanessa Fortier reported to Bill Merck.

Christy clarified she understood use of E&G for Colbourn was wrong when Colbourn because a new construction. She did not understand there was any issue with using E&G to fund the Colbourn renovation.

822/2013 email "Budget Transfer - Colbourn Hall". Christy would send emails like this all the time, not just for Colbourn Hall. She was never told to make transfer requests like this, she decided to refer to the authority for the transfer to document where the direction or decision came from. Every year everyone gets their recurring base budget so they can operation on July 1. The allocation document (signed by Provost and President) reflects additional planned spending for the year. The allocation document does not go to BOT or BOG. The BOT does approve university budget, but at a much higher level of detail.

The E&G Commitments is not the allocation document. *Tab 1 in reports are allocation documents.

The "planned mid-year" category shows what they are holding back and plan to spend mid-year.

The BOT sees an extremely high level document, maybe as little as 4 pages. The BOT approves the budget in May every year. The legislative session ends around May, shortly after which the schools find out from the BOG what the total "budget will be. The school then has to get a BOT approved budget to the BOG by end of June.

Christy's office creates the document that goes to the BOT. Vanessa Fortier previously did this, but left around 2014-2015 and was not replaced. The work she was doing transitioned to Christy and Tracy. UBC really makes decisions about how new funding that comes into the university will be used.

The budget that is approved by the BOT is called "Annual Operating Budget." This is how it appears on the agenda.

4/16/2014 "Info for Thursday's budget meeting": Tab 2 is the Planned E&G Budget Allocations which is the E&G Commitments List.

The budget chats, under Tony Waldrop, were pretty regular. The CFO, the provost, their direct reports, maybe an administrative person, Christy, would attend. They changed a little under Dale, they became a little less frequent. The budget chats continues in addition to the UBC and the FBC because they covered items outside of the scope of the UBC and the FBC. Decisions, changes to the E&G commitments list would be communicated to Christy during the budget chat meeting. If she got information outside of the meeting, she would add to the allocation document and confirm in the next meeting. Section C is recurring commitments. The grey section (labelled F) is non-recurring commitments. Christy considers carryforward non-recurring because although E&G is recurring and they always have carryforward that rolls over each year, it is still not guaranteed so it is non-recurring. Non-recurring commitments can span several years and they are still considered non-recurring.

Tabs 4-5, 4/16/2014 emails cover central commitments and show that they are regularly preparing for those discussions in those budget chat meetings

Tab 6, 4/30/2014 email: Christina says there is \$8M on signed allocation document, but they are now committed to \$10M. Reference to the meeting was probably a budget chat meeting. Christy does not recall how rich the discussion was regarding why the change happened. Her support here points to the signed document for \$8M and the meeting where the change to \$10M was approved. She describes this as a "temporary" increase to reflect that this is non-recurring. Her tem did not "move budget" without direction from Christy or Tracy. These transfers are budget transfers which are different than money/cash transfers that Meghan Nelson handled. Meghan worked with facilities moved cash. The budget is important because the cash will not get there unless the budget gets there first. Once the budget gets to the unit, then the leader of the unit must authorize it to move the cash for that budget.

Tab 8, 6/19/2014 email shows they are discussion the allocation documents in the budget chat.

At some point Christy remembers realizing the project because a new construction instead of a renovation. This was during a meeting where Lee was giving a presentation about the new building. Shortly after this meeting Christy asked Tracy if they could still use the E&G funds and Tracy responded that this had been discussed with the board and that this was Bill Merck's decisions. Tracy did not really explain much more beyond that. If there was a need that was not approved by the legislature, those projects were usually discussed in budget chats and there would be discussion of what funding they could use. *Could this have been around the 4/22/2015 FFC meeting*

Tab 9

Tab 10 8/11/2014 email "Allocations"

Ordering lunch check with others re discussion*

Global UCF was always to be paid from auxiliary. Christy felt that once a decision was made, they did not go back and change those decisions. Christy agreed Global UCF was Bill Merck's pet project. He seemed very excited and passionate about it.

Tab 17, 1/12/2015, includes an attachment with balance of non-E&G resources expected as of 6/30/2014. The commitments related to these are under the "uses" section. "Capital Projects Funding Update" shows \$23M of E&G funding for TCH.

Tab 18, 1/20/2015 email. This is an example of where Christy got information outside of a budget chat, she would add that to the E&G Commitments List and confirm it in the next/or a later budget chat. This increase brought the total for Colbourn to \$38M.

Tab 19, not significant

Tab 20, 6/19/2015 email directing budget office to transfer \$18M bringing the total transferred to \$28M leaving a remaining \$10M committed for 15-16.

Tab 21, 3/22/2016 email. Around the time of the meeting discussed in this email, Christy remembers Tracy becoming concerned about all of the capital projects that were being discussed. This meeting could be related to Tracy's concerns? At this point \$28M of \$38M budget has been transferred.

Tab 22, Christy thinks the handwriting on this document looks like Dale's handwriting.

Tab 23, Transferring from E&G to construction will reduce the amount of carryforward they will have to report. For this transfer, backdated it to 6/6 so they could report \$10M less on their carryforward balance. This would "protect" that from the risk of the legislature not honoring it if it was listed as a commitment.

Christy does not remember anything specific that Dr. Whittaker said. Recalls Whittaker attended the budget chat meetings, this was openly discussed in those meetings, however he may not have been in every single meeting.

The final, small transfers were likely outstanding invoices for that building. These were (likely) E&G funds, but not from central, likely from E&G from other departments.

Some of the decisions for the other projects that have been identified got made from the 3/23 funded/unfunded project list. Band Building and Research I were both discussed in budget chat meetings.

Witness: Dave Walsh

Date: 12/6/18

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Dave joined the board in early 2016, appointed by BOG. Served on FFC (Alex was chair), Audit, Compensation since the beginning. Recently the ???, and he chaired the

Trustee Training

He received a manual which included key bios of university staff, description of sunshine law and related laws, and other materials. It was an overview, without a lot of depth. No reference to the colors of money in the orientation.

Understanding of E&G funds and any restrictions

Dave had heard the phrase E&G, but no understanding of the restrictions associated with them.

He is sure the phrase came up in meetings. He equated it to the core academic mission.

Status of TCH when he joined

Dave only recalls discussion around the demolition of the building, but not much around how or why they needed to demolish it.

Merck Email

Dave was not familiar with the approval process. He was told that the new building had already been approved by the board.

CIPs

The first time he asked about the CIP, he was told it was a wish list of everything the university may want to do and that if they left it out, they could not do it. they approved it in the context that it was a wish list. He noted that TCH was included in 2018, but at that time the project had already begun. "Why would you list something that you're actually doing?" No one would have thought to ask "are you building this now?"

Capital Outlay Budgets

In approving the capital outlay budget, they were conceptually approving moving forward with the projects listed, subject to the expectation that they would approve the bigger projects one-by-one.

The whole thing being approved as a plan is very different than the individual projects being approved.

Dave did not know they were even building the building until this issue came up.

BOB-2

He did not take note of it or ask about it. He was much more focused on the CIP and expected that they would approve large projects one by one.

TCH Building Program

Whittaker called Dave when he was in England to say that he had signed documents authorizing the use of E&G funds and that he was furious that Merck had him sign them. Dave asked around ??? told him about the document and gave him the page number.

Board Budget Retreat

Dave believes he attended the retreat. He does not recall discussion of using E&G for TCH.

August 15 2018 Meeting

They had a prep meeting in Merck's office on the 10th. Dave had information from the email from Taft about the exit conversation. He very clearly referred to the audit report, said that he would be the fall guy and that "you people couldn't know about it because of your role."

Dave described another project where they asked to prepay a 5 year lease. "We need to find a way to hide our reserves." Pittman, Carloss, others may have been in the room. This was after the audit comment, and after saying he was going to be the fall guy.

Dave began to see "dismissive arrogance" with Bill. He feels that something of this magnitude could only happen with the leader of an organization.

His respect for Merck degraded over time.

Witness: Dr. Dale Whittaker

Date: Friday, December 7, 2018 (9 am - 12:15 pm)

Interviewers: Joey Burby, BCLP; Robert Gallagher, PWC; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background

Prior to joining UCF, Dale was VP of Undergraduate Academic Affairs at Purdue University, a state university which receives state funding. At Purdue, he was familiar with the idea of types of money to some extent, but he was not that involved with the budget. That role was under a different provost who had very little budget authority. However, Dale was very familiar with federal research funding, which has very tight constraints on uses. He does not think things were the same at Purdue. When he came to UCF, Dale joined a group of people who had been working together for many years. He “was the newbie.”

Transition to UCF

Dale moved to UCF while his wife Mary was selling their house in Indiana. He came down about a week before August 1 and moved into 55 West. He “pretty much hit the ground running” without much orientation. He did not have much interaction with Diane Chase. Diane was also a candidate for the Provost position. Dale had to figure out who he could trust.

Provost Responsibilities

The Provost’s responsibility is to advance our academic mission, which is the strategic mission, and to optimize all resources in doing that. As Provost, Dale’s title was Chief Academic Officer. He reported to Dr. John Hitt. Dale started as VP of Academic Affairs, parallel to other VPs. He became Executive VP about a year in. Dr. Hitt said it was a title to be earned. He had weekly meetings with Dr. Hitt in the Millican board room.

Dale’s Direct Reports

All college Deans, including Diane Chase, Joel Hartman (IT and later Space), faculty excellence vice-provost, reported to Dale when he was provost. They reorged in the summer of 2015. He had a financial administrator named Lynn Gonzalez, who oversaw the provost’s budget. She managed all the budgets within the academic affairs budget. He “moved Lynn along” because he had a hard time getting her to help him understand the budget. Tracy Clark had a can-do attitude. She worked for Bill Merck. Bill and Dale agreed to share Tracy to bring more clarity to the academic affairs budget. He had a hard time understanding the academic affairs budget with Lynn or Diane. Tracy provided that clarity. This was

around the time Dr. Hitt asked Dale to reconvene the UBC. Dale asked Bill to co-champion it with him. They used Tracy to bring it together. Ronnie Korosec was Dale's Chief of Staff as Provost.

Regular Meetings as Provost

The UBC met quarterly or biannually. Dale had Associate vice Provost meetings. He had too many direct reports. He had budget operations group meetings. Bill often didn't come to those a lot. Tracy, Christy Tant and Dale were there. Ronnie almost always came if she was available because she was Dale's note taker. Bill said, hey I used to meet with Diane to touch base do you want to do that again? Dale was trying to find a way to bridge finance and academic affairs. BOG Jr was focused on prioritizing academic uses of funds. It was normally Tracy, Christy, and Dale talking about the academic affairs budget. For example, if they win performance funding, how would they use it? Dale depended completely on Bill's group for sources of funds. He did not pay much attention sources. Dale was very focused on uses.

BOT Involvement

Dale tried to attend all BOT meetings and all committee meetings. He took responsibility for the education committee. He tried to review materials circulated prior to meetings. Dale spoke with Bob Garvy often. He would "ride along" for other topics unless John Hitt put something on his radar. (Meaning Dale did not pay close attention to topics outside of his area unless Dr. Hitt brought it to his attention.)

Capital Projects

Dale had very little interaction with facilities, Lee Kernek's team, that was Bill's area. Dale's focus when he arrived was to grow the faculty. Space was a challenge. Dale pushed hardest in this area in terms of facilities, quality of space, use of space. He was very focused on how they were going to advance their mission. He counted on Bill and Lee especially for new space. "They would go off and try to figure things out."

CIP

Dale knows about the CIPs. In his first few years, he saw it was really handled by Bill and Lee. Dale received it, but did not really focus on it until last year (2017?). Dale was focused on getting transparency on the prioritization of the projects on the CIP. The FBC was formed in early 2017 to try to get this transparency. This was a process he brought from Purdue. There were so many projects on there, he felt they needed more transparency.

Capital Outlay Budget (presented to BOT in May each year)

Dale is sure he was in the meetings, but he was not involved in the capital outlay budget. He often got materials to sign the night before, materials that were then sent to the president for his signature.

State Funding at UCF

Dale recalls that discussions of funding focused on recurring and non-recurring funds. Recurring was precious, great for salaries, long-term commitments. Non-recurring was one-time funds, maybe not cash on hand, used for one-time purpose. He had a real hard time getting a clear understanding that those were education and general funds. He thought state money was E&G and tuition was cash on hand. He eventually understood tuition was also E&G. Dale was totally focused on prioritizing academic uses of funds.

He saw E&G as the primary source of funding for academics. He did not have much exposure to auxiliary or other types of funds. He did not have any understanding of any restrictions on how E&G funds could be used. They spoke about recurring and non-recurring funds. They had a lot of salaries on non-recurring funds and Dale wanted to shift those over to recurring to stabilize those. He had no understanding of restrictions on E&G.

Dale heard the terms "carryforward," "reserve," and "non-recurring." He recalls not having clarity on those except what was available for non-recurring distribution. He recalls a sense that there was a lot of carryforward, there wasn't a lot centrally, but people were stashing away their carryforward. There was an effort to put a plan together for carryforward. It was not popular.

8/5/14 FFC Meeting

Dale recalls discussion of building a new building (TCH), move people to the new building, and then renovating the old building. He recalls being told that CH was "ok" and that it just "needed renovation."

There was a time that the faculty in CH began to say it was a sick building. Dale went to Bill and Lee and he was told clearly it was not a sick building. They had done tests, but they said they were going to "stabilize it." He thought it was interesting that as things progressed people were saying it was being referred to as a sick building.

Dale had no awareness of the fact that when he arrived at UCF \$10M had already been transferred for the Colbourn projects. He does not recall any discussion of that.

Whittaker Binder (WB) Tab 1 - 8/8/14 signed allocation document

He thinks Lynn gave it to him. She said "you're supposed to take it to John (Hitt) and have him sign it and you're supposed to sign it too." She said it was something Bill's group put together. He does not recall seeing CH on this document.

Dale came to have a better understanding, in general, about the form over time. He was focused on the uses of the funds. There was never a time he knew that the E&G category was not supposed to be used for the purposes it was used for the entire time he has been with UCF. It never registered with him. Dale and John trusted the people who prepared it.

WB Tab 2:

This was probably part of his (Dale's) effort to figure out what academic affairs had committed. It looks like they are working on a solution for Colbourn.

He does not think the budget chats included Bill and Christy and Tracy at this time. It was probably Lynn and Megan at this time.

WB Tab 3:

Dale perceived that Bill owned the budget chat meetings. Over time Dale probably owned it because it would be Tracy, Christy, and Dale. Bill did not come much. Tracy and Christy would bring the agenda. He recalls the E&G commitments list, they would discuss priorities. Dale thinks they would bring hard copies of the E&G commitments lists. They focused on the recurring and non-recurring allocations.

He does not recall much discussion around CH on the list. They would have been focusing on the salary increases, market adjustments that would have been negotiated with unions. He does not recall focusing on HVAC, furniture; that was Bill's area. He does not recall discussion of it (funding for CH/TCH) coming from carryforward E&G. E&G money being put toward a capital project would not set off an alarm for Dale.

WB Tab 4:

Dale recalls seeing the attachments and trying to figure out what they were and Lynn trying to help him understand. At that time, he was worried about paying salaries, making sure they had enough space. He was struggling to get an understanding of what the academic budget was.

Dale recalls the Capital Projects Funding Update, that Colbourn was coming from non-recurring funds, that it was a priority, and they had a building that needed to be fixed. He did not spend a lot of time looking at the facilities and operational parts of the budgets. He spent a lot of time on the first page.

WB Tab 5:

Dale thinks this was during his standing one-on-one. They (Lee and Bill) told him they could combine the renovation with the construction and save money. Dale's question was where they would put the faculty at that time. They had some square footage in Deng and Ying (?) buildings. He remembers going to John (Hitt) and saying "I think we can manage the faculty if we can save \$10M". Dale thinks Bill asked him to ask Hitt. This would have happened at the standing meeting on his calendar at 1:30 that day. (Tab 6). It was really Hitt that gave Bill the go ahead. Dale really advocated with Hitt that they could take care of the faculty if Hitt gave him the go ahead.

Dale does not recall much discussion about the funding source, but he remembers "we can find this internally," "we found a way to do this." Internally meant it would not come out of Dale's budget. He knew it wasn't PECO money because they were trying to get PECO money for it. The meeting would have gone like this: "we think we can find a way to do this saving \$10M, do you think you can stage the faculty?" It was really not about the money in terms of where it would come from; it was more about the faculty and saving \$10M

Bill would bring Lee to the meetings sometimes if there were topic relevant to her.

WB Tab 7 (7:22 AM):

This was Dale keeping his team in the loop. HHe felt they had made a decision to work within the budget and get a new renovated building. He was preparing his team to think about the "comprehensive programming" of the building. Dale remembers this as "magic that Lee worked."

WB Tab 8 (7:23 AM): "Pls maintain documentation"

Telling Dania to maintain documentation of the meeting.

He as looked, the notebooks for August 2016 and prior are gone, lost in transition/move.

WB Tab 9:

Faculty brought the issues to his attention. The overall sense was that the faculty in CH had not "gotten satisfaction from facilities." He pushed pretty hard on Lee through Bill to either fix it or convince Dale it wasn't a problem. Dale may have asked Lee to address the building concerns directly to the faculty.

Dale really trusted Bill. Bill did environmental safety evaluations. They told him the air quality in the building was fine. He recalls Bill giving him specific instructions to stop calling it a sick building. The concerns about structural integrity came later. The connections to the veneer had rusted and there was a concern that the bricks would fall off. There was a safety issue from someone walking under a falling brick, but it was not a structural problem.

WB Tab 10:

Dale saw this as the president approving this CIP to go to the Board. He didn't want to be asked a question about priorities by the board and not be able to answer it as the provost. The purpose of the meeting was for Lee to explain the order to Dale.

WB Tab 11:

Dale has a general recollection that UCF was asking for PECO for both projects. Bill explained that if they got PECO, "we would pay back" our internal sources. It was confusing to have a building on the PECO list that was "underway."

Dale does not recall the BOB-2 at all. He understood Lee was responsible for the PO&M.

WB Tab 12:

Dale does not remember receiving this email, but acknowledges that he did receive it. He does not know what prompted the transfer, maybe end-of-year. Even if he saw this email or saw E&G carryforward, that would not have been a red flag at all.

WB Tab 13:

Tracy probably started presented these to Dale at some point. She may have presented this one to him, but he does not remember. He would have been focused on salary increases, promotion increases. Bill would have been focused on other lines. Dale does not recall any discussion of CH/TCH related to this allocation document.

WB Tab 14-16:

Focus would have been to get more eyes on prioritization of capital projects. Bill Self (current faculty trustee) was shadowing Dale as a provost fellow. Self has very good notes on the meeting. Quote from Self's notes when Self asked about E&G column, the response was: this is "not E&G money" this is "from other sources." **Notes on the March 23 meeting dated March 24 from Bill Self were sent to Dale in an email.**

Dale recalls the right-hand column being Bill Merck saying this is how we can take care of things with internal resources. Dale probably asked for the meeting because he wanted to get past Lee prioritizing UCF's capital projects.

Dale acknowledged the hand-written notes are his.

Notes:

- "Tracy" does not mean she was there, it was a note for Dale to ask her about it.
- The Asterisk is an action item, typically for Tracy. They talked a lot about whether CITF could be bonded this year.
- Not sure about the arrow at the top under "financing" or the #1 circled at the bottom.
- Wanted to understand CREOL phase 2
- Tried to understand if Lee's information was accurate.

Dale does not know where Lee would get the information to determine the priorities at the university. This was a frustration of his when he started.

Dale recalls Bill basically said "we've got some internal funds we can do this with until we replace it." Dale did not know if those "internal funds" were E&G or not.

Dale brought his day file and the notes that Self sent him on March 24. "Day File": At the end of each day, he gives Dania a plastic folder, she gives it to a student who deconstructs it and scans it.

Rick Schell is in Self's notes, so he may have been there.

WB Tab 17:

Email to department heads, all deans, associate provosts and vice-provosts; basically academic leadership, plus arts and humanities. Dale did not have any concerns about funding. He would not have sent it unless he understood they had the money for it and they were ready to move forward.

Dale remembers there was a point where Lee said either we don't think renovating the old building is a good idea or "we can build one new building for about the same price." It may have been triggered by some kind of structural analysis. He remembers there was a point where he got pretty excited about the same budget without having to stage faculty. Then it transitioned into a fight over space. Lee would have presented that to Dale and Bill or Bill may have presented Lee's idea.

Dale did not look for a meeting related to this discussion.

WB Tab 18:

Dale does not recall this.

7/28/2016 BOT Meeting

When they went to the one-building solution, Dale understood they would tear down the other building. He understood that they were asking for PECO right up until the building was finished. That was the strategy. If they could get it replaced they could use those sources for something else.

Presentation on FBC?

Dale does not recall any discussion of using E&G to fund capital projects. He does not recall Bill saying anything about an "audit comment" here. He remembers him making that comment in another meeting in Millican. It was a throw-away comment. He remembers Bill saying he could handle it or it wouldn't be an issue. Dale remembers that bugging him, but that was Hitt's responsibility. He recalls Hitt was there. Nothing was said like "we are going to use funds that aren't supposed to be used for this purpose." He remembers there might be a little audit comment on this, but this was the right thing to do, but he could handle it. Dale does not remember the words "E&G carryforward" being used at that point. "It" may have referred to using internal funds and then paying them back if they got PECO.

"Audit comment" meaning to Dale?

They had audit comments from internal audits. He did not associate it with something being improper. He definitely minimized it. Dale remembers thinking if he were John...[*missed these comments*]. Dale trusted John to trust him. Dale does not recall John saying "what else are we going to do" or "we don't have a choice." There was no sense that this was something wrong, statutorily or under policy or even in practice. He remembers Bill being there, does not recall who else was there.

For Dale, a "comment" on an accreditation was something they needed to pay attention to or think about. A "finding" was different.

TCH Building Program

Dale does not recall any meeting about it. It was circulated for signature. Dale asked Joel to verify it, go through it, for him. Dale did not review the whole document. He was very concerned about whether he was at peace with the faculty in arts and humanities and the union. He wanted to be sure that they had accommodated everyone they said they accommodated.

Page 57 - Dale did not read this page. Looking at it today "university funds" means: "non-recurring internal sources" and "we'll take care of it." If Bill said E&G carryforward, that didn't register as anything out of the ordinary to Dale.

Page 25-26 - He does not recall reading these pages. If he had, it would not have been a red flag. He understood it was under Bill. Dale had never been given any reason to doubt Bill.

Burby pushed Dale on that last statement. Referred back to the audit comment statement, that it should have tipped him off.

Dale said that if he had been the president, he may have done more. But, Bill reported to the president, not Dale. If he had been the president he would have pushed hard on this. He remembers Bill "throwing it off," and Hitt accepting that. He trusted Bill. Dale came to UCF and Bill and Hitt had been working together for many years.

Bill talked to BOG staff all the time about questions. Bill pushed the boundaries but he always asked questions. Late in the game Bill said "audit comment" but it wasn't a big deal. Dale should have asked more questions. If Bill had said this is not the correct use of funds but we should do it anyway, Dale would have protested.

BOT Budget Retreat Presentation 3/3/2017

Dale recalls this meeting was for the trustees to understand the budget a little better. No recollection of Bill saying anything about the use of funds being improper or that they didn't have a choice.

Slide 6 - pie chart on operating cash: does not recall anything about this

Slide 9 - no specific discussion of that project

Slide 15 - The first activity of the UBC was to get the carryforward in the academic units moving. The college budget model was on recurring dollars. The E&G carryforward on the slide may have been around how they strategically deployed the carryforward. Dale does not think this was in the context of capital projects, was the overall context.

Slide 47 - Dale does not remember what university funds consist of. He understood it to be internal non-recurring resources from a lot of sources.

Aside by Dale: Dale recalls a meeting where they said we should make it clear to the BOG that we are taking a \$100M of our own dollars to take care of our own needs. Bill said we probably shouldn't because that won't help us going forward with PECO dollars.

Slide 56 - Recalls it was getting late in the day, things were moving very quickly.

No discussion of the audit comment or other similar comments in this meeting. Dale thinks a lot of people would remember that.

Audit

Dale did not attend the exit conference. He learned about the preliminary findings from Robert Taft's email. Dale would have read it within 48 hours of receiving it. He asked Grant Heston if there were any issues Dale needed to deal with. Dale asked Bill or Robert about the use of funds, remembers it did not seem to be a big deal.

Before the meeting in Grant's office to prepare for the call with Chancellor Criser, Bill said they will see if they can just put the money back and that should take care of it. Did not seem like a big deal until they prepped for the call with Criser (the call was on the 28th of August). Bill did not see why it was such a big deal. Vicky Shirley, Chris Kinsley, Tim Jones and Julie were on the call Scott Cole was there..

Lindsay may be able to provide a list of who was on the call.

During a meeting in Grant's office, Dale asked Bill "what happened here?" Scott asked him why he used the term non-recurring funds.

Dale's paraphrase of what Bill said:

- I know if that I had told the BOT that these were E&G funds that they could not or would not have approved them and we needed to do this.
- If we had said that we were using E&G, maybe carryforward funds, then the BOT could not or would not have approved it and we need to do it.

Dale felt Bill went around the whole governance process to make a singular decision.

In this meeting, Dale separated Bill's CFO's duties, created a process to certify funds, and made the decision to replace the funds. Dale asked Bill to retire at the end of the year. Dale had no previous indication that Bill was planning to retire. Bill asked him to let him retire rather than just fire him. That is something Dale regrets at this point. He probably should have just fired him right then and there. It was probably "humanity" that he didn't. This was a person the president trusted, that did what he believed was right, had given a lot to the university. When Dale separated the CFO duties, he felt he had solved the problem of the person in facilities being able to find funds without that being monitored. When Wend Link made her comment at the September BOG meeting, Dale thought why would you just fire someone on the spot, maybe he should have put him on administrative leave.

Bill insisted that he made the decision unilaterally. Dale does not recall Bill saying anything like "don't you remember we all decided this together".

Dale had a meeting with all of Bill's direct reports the day after the BOG meeting. Lee, Tracy, and Greg Robinson were in there. Dale's guidance was to be transparent. Lee said "does that mean you want us to be completely honest" "even when were asked to be less that forthright in the past". Dale said yes. He has not heard from Lee since then.

Dale had a meeting with Tracy, she was very upset for Christy. This may have been within a week of the meeting with Bill's direct reports. She said "none of us knew that this was wrong." He said Tracy just be honest, let you (Burby) do your work. Did not know the "you" was Burby, but knew it would be someone.

Tracy is the one Dale really trusts a lot. They have not really spoken because he knew this (investigation) would be underway.

Merck Letter

Bev delivered it to him. He sat on it for 3 or 4 days. Someone suggested he read it in preparation for the interview so he did.

"If our CFO who had been here for 20 years did not know this was wrong..."

"this was certainly not the Provost's job"

"there is a lot that was true in that letter"

He had never had any reason to believe that anything was inappropriate when he came to UCF.

He was not the Provost at the time of the first transfer.

Witness: Bill Yeargin

Date: 11/15/18 @ The Hitt Library in Fairwinds Alumni Center

Interviewers: Joey Burby, BCLP; Sakinah Jones, BCLP; Julie Leftheris, State BOG IG.

Joey introduced everyone in the room and provided the witness with the Upjohn warning.

Background:

Mr. Yeargin started on the Board in August of 2015. He chairs the nominating & governance committee and he sits on the finance & facilities and auditing committees. He was assigned to FFC within a month or two of being appointed to the Board.

Understanding of Funding:

Mr. Yeargin had a general, high level understanding previously. He knew there were funds given to the school for various purposes and we had to "keep all the buckets straight." He knew E&G funds were state funds, but did not have a detailed understanding beyond that. He knew funding should come from the right bucket, but did not have a clear understanding that E&G could not be used for construction. If he saw something reflecting a building being constructed with E&G, he would have assumed it was the right bucket because he put a high level of trust in Mr. Merck.

Mr. Yeargin attended an orientation after joining the board. It was a "couple hours, maybe a half-day" meeting. There may have been a binder of materials. Shortly after being assigned to FFC, Mr. Yeargin requested a meeting with Mr. Merck. During this meeting they went over a very high level review of funding.

Process:

The FFC gets a high level summary of projects, he thinks this is the CIP. It is approved in August and can be adjusted from time to time. This might not be the CIP. Bill Merck presents the list of projects. Mr. Yeargin is familiar with the capital outlay budget. All capital projects came to the FFC through Mr. Merck. Ms. Kernek has participated in those presentations.

Mr. Yeargin does not have individual communications with Mr. Merck or Ms. Kernek about materials to be presented at the FFC meeting in advance of the meetings.

TCH was approved before Mr. Yeargin joined the Board, so he did not know the source of funds and assumed it was being appropriately funded.

How did he first hear about the issue?

Mr. Yeargin received a phone call from Scott Cole or Grant Heston about a week or two before the September 6 (?) BOT meeting. He was "shocked." He did not have any conversations with Mr. Merck, Ms. Kernek. Very early on, Mr. Yeargin had a conversation with Mr. Whittaker and his impression is that Mr. Whittaker was also "shocked."

Reports:

Mr. Yeargin's understands the CIP list to be "sort of a wish list" of all the potential projects that may or may not be funded.

Mr. Yeargin's understands the BOB-2 to mean what the title of the form describes. He is sure he saw the BOB-2 at the meeting where the CIP was approved, but he is not sure that he realized the significance of TCH/CH listed as funded by E&G. Mr. Yeargin reviews agenda materials in preparation for Board meetings, but the details of the BOB-2 "line-by-line" during board meetings.

Mr. Yeargin recalls the discussion during the 6/27/2016 meeting. He remembers discussing whether it made sense to tear down CH or renovate CH.

Mr. Yeargin does not recall seeing the TCH Building Program document. The term "university funding" (Appendix C, p. 57) does not mean anything specific to Mr. Yeargin.

Other Thoughts:

Mr. Yeargin shared a story about Mr. Merck brining a request for approval to allow a professional team to use the UCF stadium. Mr. Yeargin asked if the neighbors were in agreement. Mr. Merck said no. He was concerned that Mr. Merck did not bring all of the information to the Board in his presentation and is not sure if this is an indication of a larger pattern.

Mr. Yeargin believes that if the board knew the building was being funded with improper funds, no one would have agreed to it.

Mr. Yeargin does not recall hearing Mr. Merck saying he would take an "audit comment" or "audit hit." He would have been concerned if he heard something like that.