

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**WITNESS INTERVIEW SUMMARIES**

**Bottorff, Allen (10/3/18)**

- Started at UCF in 10/16; Director of Downtown Campus for Facilities, Planning & Construction; reports to Lee Kernek
- Surprised to learn that 2 capital projects downtown (downtown campus infrastructure and Center for Entergy Media (CEM)) were funded with E&G; reviewed BOG regulations and agrees that not permitted
- He joined UCF from community college system; there it's okay to use E&G for capital projects; no restrictions
- CEM was approved (including funding) before he joined school; had no clue where funds coming from, although knew not PECO
- He helped prepare Capital Improvements Plan (CIP), at least the two downtown projects on the list
- When he started, they were getting ready to start construction on TCH; no discussion of funding source
- Lee Kernek and Bill Martin seemed surprised to learn that E&G funds were used; Martin didn't even know what E&G funds were; he thinks Kernek knows what they are and should know (because of her role) of restrictions on use
- Lashonda Brown told him she couldn't tell where the funds for TCF came from; that info isn't visible to her on PeopleSoft

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT  
FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Brown, Lashanda (10/4/18)**

- Associate Director, Business Office, Facilities & Safety Resource Management
- Started at UCF in 2007 as Construction Accountant in Facilities, Planning & Construction
- Facilities Business Office formed in 2008; part of Resource Management Department; handles accounting for all Facilities & Safety units
- Became Associate Director of Business Office in 2014; construction accounting handled by Nestor Garcia and his staff
- "Major Projects" and "Capital Projects" mean same thing to her; new buildings costing over \$2MM; "Minor Projects" cost less than \$2MM
- Get appropriations letter from Legislature, saying what funds awarded for what projects; this is the 442 Report; goes to Finance & Accounting
- Facilities prepares 352 Form (Department of Education form); requests authorization to select contractor, etc.; they award contracts
- Finance & Accounting creates project (initiated on own); 8 digit project account #
- Her team creates requisitions and encumbers the contracts, prepares purchase orders, monitors pay applications, invoices, etc.
- For PECO funded projects, cash drawn down from state; Megan Nelson in F&A manages that; she transfers cash to construction account
- For non-PECO funded minor projects, Facilities creates account, etc.
- For non-PECO funded major projects, decisions on funding sources made a higher level than her; she learned after the fact; Megan sets up
- Her office never decides on source of funds; they just perform the transaction
- Did not know that could not use carry forward E&G funds for capital projects
- Thought could use those funds for renovation work and new construction in any amount
- Basically thought any funds could be used for any type of capital project
- TCH was a project created by F&A; they identified the funding source; she didn't send something to Megan to create the project; rather, F&A initiated everything, drove it

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulation of knowledge**

- Money was transferred by her staff from one project (CH) to another (TCH)
- She had no personal involvement
- During audit, she asked Gina Seabrook if she knew about restrictions on use of E&G funds; Gina said she had "no clue"
- She told Lee the same thing, that she had no clue; her impression was that Lee did not know about restrictions either, but didn't specifically ask her

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Carloss, Angie (9/27/18)**

- Executive Assistant to VP of Administration and Finance since 12/14
- Worked for Bill Merck
- She managed his calendar, responded to emails (his email forwarded to her), handled correspondence and filing
- Had standing meeting with all Associate VPs once or twice a month; plus each AVP met one-on-one with Merck monthly
- Another standing meeting was the Budget Operations Group (BOG Jr.); scheduled by Provost office (not her); frequency and day varied; usually twice a month
- Another standing meeting was with John Hitt (these were bi-monthly and one-on-one); Hitt's assistant (Sandy Cherepow) scheduled; no agendas
- No discussions with Merck about TCH or funding source
- Merck didn't take notes
- Merck didn't seem concerned about State AG audit
- In response to question about what happened from auditor, Merck wrote draft and emailed it to her; she edited it; he approved and they sent to GC office
- She has original version Merck sent her and final
- Merck met with President Whitaker on Wednesday after Labor Day; she was in Merck's office for the meeting
- They agreed he would retire at the end of the year; Merck admitted that funds were misused; that it was an issue; he said the building was in bad shape, was a safety issue; needed to do something; said he made the decision; didn't say who else knew or was involved
- Has spoken to Merck one time since he left; just discussed how he was doing

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Chase, Diane (11/9/18)**

- Former Executive Vice Provost (2014-2014) and Acting Provost (4/1/14-8/1/14)
- Worked for 30 years at UCF, mainly in Anthropology Dept
- Left in 4/16 to be Provost of UNLV
- When serving as Executive Vice Provost, she reported to the Provost, Tony Waldrop
- When Waldrop left UCF in early 2014, she briefly served as Acting Provost until Dale Whittaker started as Provost in 8/14

*CH/TCH*

- CH was old building on campus; faculty not happy with it; mold and asbestos
- Recalls Lee Kernek sharing pictures of CH with her and Tony; clear that building not in good shape
- Recalls there was plan to renovate it, then they decided that wasn't cost effective and that it made more sense to build a new building
- Recalls Board approved that decision (thinks she probably attended the 4/3/14 FFC meeting)
- Recalls Merck explaining at some point that if they work on two projects at the same time (the construction of TCH and renovation of CH), they would save money
- She is 100% certain that Merck never said in her presence that the funds used to construct TCH may result in an audit comment or suggest in any way that it was potentially improper or would raise a red flag; she would remember that
- Not sure of status of CH/TCH when left in 4/16; leading up to her departure, she was very focused on accreditation issues

*E&G Funds*

- She had no understanding of restrictions on use of E&G funds
- Not aware that E&G funds can't be used for new construction and not aware of \$2M cap for renovation expenses
- She had no understanding of E&G carry forward either

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Budget Chats/Budget Operations Group Meetings*

- Tony brought her to a few of these meetings over the years, just to see what they were about
- Only attended them regularly while she was serving as Acting Provost (4/1/14-8/1/14)
- As Acting Provost, her role at these was to support the academic priorities of the university
- Bill Merck and his staff led the financial discussion at these meetings; she trusted him; he had been at the university for a long time
- Recalls focus was on "University Reserves" that had accumulated and how to spend them
- She didn't have clear understanding of what comprised the reserves or how they could be used
- She does not recall much discussion of CH/TCH at these meetings
- No one ever said that can't use E&G to build TCH or that use of such funds may result in an audit comment; recalls no concerns being expressed about the use of the funds

*Tab 1*

- She doesn't recall the Budget Chat meeting referenced in Tant's email or being involved in approving the transfer of \$9.3M for CH
- While she likely saw this email, the reference to "E&G carry forward reserve" would not have meant anything to her or raised a red flag because she wasn't aware of the restrictions on the use of E&G at this time
- She did not have a specific understanding that E&G funds were used

*Tab 2*

- She doesn't recall this E&G Commitments List

*Tab 3*

- She doesn't recall the specific Budget Chat meeting referenced in this email or approving the decision to increase funding of CH from \$13M to \$18M
- She recalls generally that the cost of renovating CH increased over time, and that Merck would report this at meetings

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

- She noted that Dale Whittaker started as Provost right after this (on 8/1/14)

*Tab 7*

- She doesn't recall the "rich discussion" that Whittaker references in his email
- She generally recalls being involved in discussions about who would occupy the new TCH, how much space they would need, etc.
- She does not recall being involved in any discussions about what funds would be used to pay for the construction of TCH ("recalls no discussion about the colors of money")
- She does not recall Whittaker telling her about his meeting with Hitt
- She noted that Lynn Gonzalez was in charge of the Budget for Academic Affairs (in the Provost's Office) and that Ronnie Korosec was Whittaker's Chief of Staff

*Tabs 8-9*

- She thinks this meeting with Lee Kernek in 1/15 related to space issues in TCH, how much was needed, what type, etc. -- basically the assignment of space to various departments
- She recalls there being some disagreement over this
- She does not think she actually attended this meeting which it's clear from the emails they had trouble scheduling

*Tenure as Acting Provost*

- Focused on faculty hires and salary increases
- The CH/TCH project was not a focus
- She does not recall specific meetings with Lee Kernek while serving as Acting Provost

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulation of knowledge**

**Cherepow, Sandra (10/4/18)**

- Former Senior Administrative Assistant to President John Hitt
- Worked for 47 years at UCF
- Served as Dr. Hitt's Senior Administrative Assistant from 2003 until he retired this year
- She maintained Hitt's calendar
- Each night, she gave him his schedule and paperwork for meetings the next day
- Hitt took notes on a yellow pad; he kept them in a rolling file drawer in his office
- Hitt met one-on-one with his VPs; she did not sit in on those; Merck met with him; they did not appear to have a particularly close relationship
- All VPs met every other week from 9-12
- Hitt also met one-on-one with Provost
- She doesn't recall discussions of TCH; not on her radar screen
- She's familiar with terms E&G and PECO but not involved with them
- Documents for Hitt to sign were logged in at front desk
- She filed things for Hitt under Projects; doesn't recall a file for TCH



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Clark, Tracy (9/27/18)**

- Associate Provost for Budget, Planning, and Administration, and Associate Vice President for Finance (has two titles/roles)
- Joined UCF in 9/07 as University Controller; reported to Vanessa Fortier (Assistant VP over Finance & Administration), who reported to Merck
- Vanessa retired in 3/13 and Tracy became Assistant VP; later promoted to Associate VP of Finance and reported to Merck
- In 3/15 she got second title, Associate Provost for Budget and Administration, and reported to Whitaker as well as Merck

*Funding Sources*

- Her department manages operational budget; Kernek's department manages the capital budget (generate CIP, etc.), with involvement from Merck and President
- All money comes into one bank account; budget office allocates it to different units
- Facilities-related funds they receive (PECO, infrastructure funds, repair and renovation funds, deferred maintenance funds, plant operation and maintenance (PO&M)); she's not very familiar with these
- Aware that E&G funds are not for capital projects; learned on the job; not sure where it's written down
- Thought E&G funds could be used for deferred maintenance; wasn't aware of \$2MM cap; just learned of that recently

*Weekly Budget Meetings/Discussion of TC Hall*

- There was no budget committee when she started
- Ad hoc meetings were held at Miliken Hall; attended by Merck, Vanessa, Lynn Gonzalez, Terry Hicky and the Provost (Tony Waldrop, then Diane Chase, then later Dale Whitaker)
- Called "Budget Chat" meetings; Provost and CFO decide on how to commit money in these meetings (subject to approval by President)
- Used document called E&G Commitments List to track decisions (commitments against central reserve); started by Vanessa or Lynn

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Colbourn Hall was added to E&G Commitments list around 1/13; \$8MM committed to renovation; cost estimates increased to \$10MM
- In mid-2013 the money was transferred to a construction project in Facilities department; at that point it was removed from the E&G Commitments List because funds were spent?
- She started attending these meetings around 3/13 as Vanessa was getting ready to leave
- Attendees going forward were her, Merck, Provost, Christy, Lynn Gonzalez and Megan Diehl; the President did not attend
- There was discussion of the studies of Colbourn Hall which showed the poor condition of the building; estimated renovation costs going up
- In July 2014, Christy sent email to attendees at Budget Chat meeting (Diane Chase, Merck, her and others) attaching E&G Commitments List and confirming decision to add \$18MM for Colbourn Hall (on top of the previous \$10MM)
- Merck made comment more than once at these meetings that using E&G funds to pay for TC Hall might pull an audit comment

*BOT and BOT F&F Meetings*

- She attended these with Merck; sat right next to him
- Bill never said at these meetings that using E&G funds for TC Hall
- Can't recall what was said at the 4/14 F&F meeting beyond what minutes indicate; doesn't call any specific discussion of what funds would be used

*Discussions with Merck*

- At some point, after project changed from renovation to new construction, she told Merck it was not an appropriate use of E&G funds
- He said they had no other alternative, and "I'll take the audit comment", referring to the State AG operational audit
- Merck didn't act like this was a big deal, and so she didn't either

*Who Else Knew*

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Thinks President and Provost knew E&G funds were being used based on fact that project listed on E&G Commitments List, Allocation document, and Bill's comments in Budget Chat meetings and meeting described below
- Her team also prepared a one-page spreadsheet with a summary of the funds used for TC Hall
- In 3/16, she sent an email to Merck and Dale and attached this spreadsheet for them to use in meeting with Dr. Hitt
- She attended a later meeting with Merck, Hitt, Provost (thinks Dale) and maybe Kernek; purpose was to discuss all capital projects that needed funding
- During the meeting, Merck said, "The use of these funds might pull an audit comment"; Hitt responded, "What else are we going to do?"
- She thinks it was clear they were talking about E&G funds; and there was nothing said about the funding being temporary or that they would be swapped out later for PECO funds (if received)
- Also, prior to this, in 1/15, Merck sent her an email (and others) regarding a meeting he had that day with Hitt and Whitaker, in which Hitt approved moving forward with the additional \$10MM for the renovation of Colbourn Hall and construction of TC Hall (increasing the price from \$28MM to \$38MM); she used this email as approval to allocate the \$10MM, and sent an email to Christy to that effect that day
- She never discussed this issue one-on-one with Whitaker or Hitt

*State of Mind*

- Didn't think it was a big deal
- Never considered reporting to anyone
- Top executives at the school were okay with it; they weren't worried
- She was also reluctant to challenge Merck; "my career wouldn't survive"

*Reports to BOG*

- Report balance of carry forward E&G funds back to state in Fund Balance Composition Report

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulation of knowledge**

- One of categories is "Repair/Renovation/Infrastructure"; they put funds allocated to TC Hall construction in that category
- Rationale was that this was best category for it; and since original plan had been to renovate Colbourn Hall
- Report prepared by budget group under Christy (based on E&G Commitments List); she approved the final report; Merck not involved
- She had limited interaction with BOG staff; saw them at some meetings

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Clark, Tracy (10/24/18)**

*Tab 1*

- These emails relate to preparation of the mid-year Fund Balance Composition Report a/k/a Carry Forward Report; have to report how plan to spend remaining carry forward balance in second half of year
- See discussion of removing \$8M in planned expenditures for CH renovation from the "Building Maintenance and Repairs" category in the report
- See that despite removing that expenditure from the report, the plan is still to pay for the CH renovation using E&G funds
- If look at E&G Commitment List from this same time period (the earliest one we have is dated 5/27/13), see CH renovation listed with \$8M of E&G committed
- She had no concerns at this point about using E&G to pay for the CH renovation, because thought E&G could be used for renovation, and not aware of \$2M cap

*Tab 2*

- Allocation document ("E&G Budget, Summary of Allocations and Reserve") signed one time per year in August by President and Provost; not shared with BOT
- All of the funds being allocated are E&G (includes newly appropriated E&G and carry forward E&G)
- This authorizes the expenditure of E&G funds during the fiscal year (i.e., it allocates the budget)
- There are in-person meetings
- Vanessa used to prepare this document, then Tracy's office began preparing
- She would meet with Whittaker when he would sign, answer any questions; then Whittaker would meet separately, and alone, with Hitt to get Hitt's signature
- Allocation document provides support for E&G funds transfer (and can't transfer until Allocation document signed)
- See that email directs transfer of \$700k from central reserve account to Facilities account; from there the money can be transferred to construction account

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Christy's email says to notify John Pittman and people in Facilities business office when the transfer posts; this was so that Facilities people could know to move the money to the construction account
- Pittman was Budget Director at time; he knew E&G funds were used for CH project based on this email and others

*Tab 3*

- She attended this Budget Chat meeting on 4/17/14
- Doesn't recall discussion of CH renovation
- At this time, small group attended Budget Chats; met every few weeks for an hour
- Most of conversation focused on commitments against the "central reserve" (which was E&G); Merck and the Provost would come to these meetings with budget needs, wanting money, etc.
- Provost and Merck made decision on commitments; sometimes consulted President (who did not attend these), sometimes not; she and her staff did not wait on President approval
- Note that all participants in Budget Chats were familiar with the E&G Commitments List ("Planned E&G Budget Allocations"); it was frequently shared before, during and after meetings; everyone understood talking about E&G funds
- No way someone could sit in on these meetings and not understand talking about how E&G funds would be spent
- On this E&G Commitments List (and all of them), the section entitled "Planned nonrecurring allocations" refers to allocations from E&G carryforward funds
- See that CH renovation is listed in that section, with \$700k spent to date and an additional \$18M planned for 2013-2014 (it's already April so plan is to spend that additional money by the end of the current fiscal year)

*Tab 6*

- See transfer of \$9.3M from E&G carry forward reserve to Facilities department account (where it would later be transferred to construction account) on 4/30/14
- At some point the commitment to the CH renovation project increased from \$8M to \$10M; would have been approved in Budget Chat meeting; she doesn't recall the meeting

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- That's the meeting referenced in Christy's email, which would have been attended by Merck and the Provost (Diane Chase at the time)
- Because the total expenditure on CH of \$10M exceeded the amount committed on the Allocation document for 2013-2014 of \$8M, it had to be approved
- This change would have been made on the E&G Commitments List (see list for 6/17/14 which shows revised plan of \$10M; looks like amount went from \$8M to \$18M to \$10M in first half of 2014)
- Also asked her about the 5/22/14 BOT meeting that occurred after this meeting:
  - At this meeting, the Board voted to approve the construction of new TCH adjacent to old CH
  - Not sure if she attended
  - Not sure if she helped Merck draft the Proposed Board Action re: CH Renovation; thinks that he and Lee probably drafted it together
  - "UCF non-recurring funds" = carry forward E&G (that's how she interprets it now, but concedes there are other types of non-recurring funds)
  - Doesn't recall seeing this or what she thought of it in 2014
- Thinks it was around this time that she shared with Merck her concern about using E&G funds for new construction (see notes from prior interview)
- Asked her about Global UCF and decision to fund that with auxiliary funds rather than using auxiliary funds for TCH
  - Doesn't recall any discussion of using auxiliary funds for Global UCF rather than TCH
  - Thinks rationale may have been that Pathway Program (for international students) that was going to use Global UCF would generate \$ for UCF, and that these auxiliary funds would be used to repay the auxiliary funds used to construct Global UCF

*Tab 9*

- See reference to decision in 7/22/14 Budget Chat meeting to increase E&G funds committed to CH for 2014-2015 from \$13M to \$18M (as reflected in attached E&G Commitments List)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Merck would have presented the request for additional funds for CH; Lee Kernek would have provided him with that info
- Diane Chase was copied on the email because she was still Interim Provost; but Dale Whittaker likely attended the meeting; Dale started attending Budget Chats with Diane before he officially became Provost
- July 1 was start of new fiscal year (2014-2015); see the additional E&G funds for CH reflected in the Allocation document signed in August 2014; \$18M non-recurring allocation for CH from University Reserves

*Tabs 10 & 11*

- Apparently after becoming Provost, Whittaker asked Lynn Gonzales for a list of the allocations/commitments made by the Budget Chat group (now called "BOG Jr.") over the last year (2013-2014) (discussed in Tab 11)
- Lynn asked Christy for that info, which Christy sent in Tab 10 (see CH listed as a "Planned Mid Year Allocation to be funded during 2014-2015" in amount of \$18M, representing the remainder of the \$28M commitment made in 2013-2014)

*Tabs 14 & 15*

- In advance of BOG Jr. meeting on 12/2, Christy circulated copy of E&G Commitments List; CH is listed under Planned nonrecurring allocations for \$18M in 2014-2015
- Christy said in email that they wanted to discuss the document at the meeting
- She does not recall the meeting; CH wasn't only thing on agenda
- See that Whittaker received this email and the E&G Commitments List

*Tab 17*

- Christy sends her copy of Capital Projects List
- This was a new document they created; prompted by need to track all of the capital projects and where funding coming from
- Wasn't requested by anyone; they just thought it made sense
- See attached "Capital Projects Funding Update" - TCH and CH are listed; they're short \$10M; plan to fund with E&G



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

*Tab 18*

- What recall about Merck's email? That it would cost less if did both projects at the same time; that was decision to be made, whether to build TCH and wait on renovating CH or do both at same time
- What did Merck tell you about the meeting between Whittaker and Hitt? Don't recall
- Since Merck said the new approved budget for CH/TCH was \$38M, she emailed Christy to add another \$10M to CH on the the E&G Commitments List
- Note that she only met with Hitt one time ever; he did not attend Budget Chat meetings

*Tab 19*

- Dale responded to Merck's email, showing he read it

*Tab 20*

- See transfer of \$18M from E&G carry forward reserve to Facilities department account (where it would later be transferred to construction account) for TCH/CH on 6/19/15
- This \$18M was included in the Allocation document for 2014-2015 (didn't need separate approval)
- Christy notes in the email that an additional \$10M is committed for 2015-2016

*FFC Meeting on 4/22/15*

- Recalls no pre-meeting discussion with Merck; no discussion about not saying E&G funds were going to be used for TCH
- To her, "carry forward" = E&G; she felt like they were clearly telling the Committee members that they were using E&G to pay for TCH
- She attends all FFC meetings; they routinely discuss carry forward funds; thinks the Committee members understand what it means
- Doesn't recall feeling relief after meeting that all "out in the open"; in her mind it had already been in the open, not a secret what money they were using

*Tab 21*

- She sent Whittaker and Merck a Capital Projects List for their meeting with Hitt on 3/23/16

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Whittaker asked her for this; she has an email reflecting that
- See that format of document is different from one at Tab 17 (from 1/15)
  - At some point Merck asked her and Christy to transfer responsibility for the document to John Pittman
  - Christy got it from Pittman and sent it to Tracy (as see in first email in thread in Tab 21)
  - They updated it with info from Lee Kernek and Pittman; recalls Christy sending out an email, gathering info (also see text of Tracy's email in Tab 21)
  - See that TCH and CH are listed under "Funded Projects" with Central Funding Source identified as E&G
- Doesn't recall hearing about the meeting; not a regular meeting; she did not attend it

*Tab 22*

- Dania (Dale's secretary) printed out Dale's notes on the Capital Projects List as well as the related email exchange (with a yellow sticky note at the top right re: the meeting) and scanned them to her as a PDF; said that Dale wanted to meet with her to discuss some follow-ups from the meeting with Hitt
- Doesn't recall meeting with Whittaker; could have been in person or by phone but doesn't remember the conversation, if they had one

*TCH Building Program document*

- Never seen before
- Not involved in preparing it
- Appendix C - "University Funding" - Not a term she uses or is familiar with

*Florida State incident (busted for using carry forward E&G on building)*

- Not familiar with it

*Meeting in Dr. Hitt's office in around 2016 (discussed in prior interview)*

- Certain of location (one of only times she's been there)
- Thinks Hitt, Merck, the Provost (thinks Dale) and maybe Kernek were there

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Can't recall what meeting was about or context for the comments
- But during the meeting, Merck said, "The use of these funds might pull an audit comment"; Hitt responded, "What else are we going to do?"
- She is confident in her memory of that exchange

*Capital Outlay Budgets*

- No involvement in preparing
- Can't explain purpose; just knows they're approved by Board

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Clark, Tracy (12/6/18)**

*Tab 1*

- Operating Budget has to be approved by BOT and submitted to BOG by end of fiscal year (6/30)
- Board doesn't approve Attachment D to Operating Budget ("Summary of Expenditures"); just provided for info purposes
- Attachment A (the "Proposed Operating Budget") is what they approve
- Thinks TCH was likely included in Attachment D under "E&G Expenditures by Activity" and under PO&M, but is speculating; that's auto generated by system based on coding
- Doesn't recall any discussion about where to put TCH spend in this report
- Asked why they stopped presenting breakdown of E&G spend by activity in Attachment D after 2015? She said they decided it wasn't helpful to the Board; had nothing at all to do with TCH

*Tab 2*

- This is Operating Budget submitted to BOG in August (more detailed than what BOT approves in May)
- Lots of data and reports are provided to BOG as part of Operating Budget Package; uploaded to BOG through portal; this stuff doesn't go to BOT first
- She doesn't know where the TCH spend/transfers are reported in this document
- She's not involved in that level of detail
- Fund Balance Composition Reports submitted to BOG at this time; one of required forms
- She does not recall discussing what category to put the TCH planned spend under; the document is put together by Christy and her team; assumes they decided that Deferred Maintenance was the best category
- Doesn't recall being involved or having any concerns about the FBCRs; no discussions with Merck about that she recalls

*Allocation Document*

- E&G Budget comes from Operating Budget

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Allocation Document says how going to allocate that budget over current FY
- Serves as authority to spend E&G
- E&G Commitments List "feeds" into the Allocation Document, informs it
- "Non-recurring allocations from non-recurring funds" category on Allocation Document
  - Non-recurring allocations = one time expenditures
  - Non-recurrent funds = carry forward E&G (because all other E&G is recurring, get every year from state)
- Before she became Associate Provost for Budget, Planning, and Administration in 3/15, Vanessa Fortier and Lynn Gonzalez handled the Allocation Document
- Beginning in 3/15, she would meet with Dale one-on-one to review it and get his signature; it was usually a one hour meeting; they would go through every item
- Dale would meet with Dr. Hitt alone to review it and get his signature, although she attended that meeting one or two times
- It was clear in these meetings that talking about E&G funds
- Recalls no discussion with Dale or Dr. Hitt about any concerns about using E&G funds for the purposes listed on the document, including CH/TCHa

*Conversation with Merck about Concerns*

- She expressed concern to him about using E&G for TCH
- This was after project changed from renovation to new construction
- Took place before Whittaker started; thinks it was in mid-2014
- After that, they didn't discuss the matter again, because decision was made

*Tab 3*

- No recollection of this exchange or the issue

*Tab 4*

- She and Christy had started maintaining a Capital Projects list around this time (8/15)
- Knew Lee kept similar lists; she had asked Lee to share hers

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- See attachment entitled "Projects Requiring University Funds"; note line across middle
- Recalls that Lee's list had "above the line" projects (higher priority) and "below the line" projects (lower priority); that was how organized
- Lee would meet with Merck about her list and project funding issues

*Tab 5*

- See that Merck transferred responsibility for maintaining the Capital Projects spreadsheet to John Pittman in around 10/15
- Merck wanted Pittman to handle because he sat right beside him in Milliken Hall; Tracy and Christy were in different building (Finance and Accounting)

*Tab 6*

- Not sure why Lee sent this to her in 3/16
- Lee's project list was usually the most up to date because she heard things first

*Tab 7*

- Thinks this was around time (5/16) that she and Christy took back over the Capital Projects list
- It coincided with when Dale asked them to prepare the document for the 3/16 meeting with Dr. Hitt
- See that format of document had changed while John Pittman was handling it
- See that Funding Source for TCH and CH is identified as E&G; she think Pittman prepared this document and therefore had to know that E&G was used for TCH

*Tab 8*

- By 6/16, she and Christy are maintaining the Capital Projects List again
- See their efforts to improve the process, get more info and keep everyone informed
- Note that on this list CH/TCH is identified as being fully funded

*Tab 9*

- Gina responded to Christy's email (Tab 8)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- See that Gina combined CH and TCH into one project, because no longer renovating CH; decision made to tear it down

*Tab 10*

- It was her idea to form a Facilities Budget Committee (FBC); evolved out of her involvement with the Capital Projects list; she pitched idea to Dale and he agreed
- FBC orientation meeting held on 3/22/17; they gave PPT presentation
- The slide deck was a group effort
- Slide 24 - she thinks Lee covered this; can't recall what she said exactly, but discussion was very general and high level
- They did NOT attendees that using carry forward E&G to pay for the construction of new buildings or TCH specifically

*Tab 11*

- She never saw the engineering reports related to CH; not clear on safety issues
- Doesn't recall having phone call with Lee or why she wanted to discuss by phone rather than email

*Tab 13 B*

- This transfer in 2017 was between accounts in Facilities
- That department was using its own E&G funds
- Finance and Accounting was not involved in these transfers; money didn't come from E&G Central Reserve like in case of earlier transfers

*Tab 13 C*

- Same thing, except E&G funds came from the College of Arts and Humanities
- Paying for phones in TCH

*Presentation at Board Budget Retreat on 3/3/17*

- Hitt and Whittaker both attended
- She and her team prepared the PPT deck; Merck reviewed it

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- She provided us with her talking points for the presentation
- There were 3 presentations in the deck
- She and Merck gave the first presentation (Slides 1-27)
- Doesn't recall prepping with Merck or any discussion beforehand about TCH and how would describe the funding source; doesn't recall being concerned; was for Bill to deal with if it came up
- Slide 6 = Operating cash balances of University as of 6/30/16; cash accounts in GL; this shows where money sitting and for what; "Restricted for Construction" means money being used for construction (sitting in construction accounts); some of that money came from PECO, some from E&G, etc.
- The categories that make up the cash balances slide are then broken down on slides 7-9
- Slide 9 (Restricted Cash - Construction as of 6/30/16) lists TCH Construction and CH Demolition among how this construction is being spent
- Per her talking points, this slide was not discussed in any detail
- Slide 14 discussed the sources of incremental operating revenue received by the university and the method used to deploy those resources
- Slide 15 lists "Other Resource Options" including "E&G carryforward"; per her talking points, she just listed these options without any specific discussion of them
- She did not say in discussing Slide 15 that they were using E&G carryforward for capital projects or new construction of TCH specifically; talking here about funding the operation of the entire university
- Lee Kernek took over at Slide 38
- Doesn't recall what Lee said about Slide 47 or how described "University Funds"
- Slide 56 - this was same slide as from FBC Orientation presentation and thinks Lee said the same thing; discussion very general and high level; does not think Lee said they were using "Carry-forward funding" to pay for new construction of TCH specifically
- She does not recall Merck or anyone else saying during this presentation that the use of carry forward E&G funds for TCH may draw an audit comment



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

*Audit Comment*

- Merck said this during meeting she attended with Hitt; doesn't know date; no meeting with Hitt on her calendar
- Merck also said this during their one-on-one meeting where she expressed concern about using E&G funds for THC
- She is not sure if he ever said it during a Budget Chat/Budget Operations Group meeting

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Cole, Scott (9/26/18)**

- Hired as General Counsel in 1/02
- No involvement in capital projects process
- Was never consulted on use of E&G funds for capital projects
- First learned of issue with TCH in connection with State AG audit
- He attended the Exit Interview; when the auditor asked why they used E&G funds for TCH, Merck said "This is on me, I authorized it, I'll take the audit comment."
- He also said, "This was a sick building, had to get people out of there."
- It seemed clear to Scott that Merck knew he was not permitted to use E&G funds for that purpose and was explaining why he did it anyway (he had no choice in his view)
- Around a week later, he met with Merck and Dale Whitaker (and possibly Grant Heston); Merck said pretty much the same thing he said at the Exit Interview
- Merck added that they had asked Chris Kinsley at BOG for money and he said no, and that they had planned to pay back the E&G funds (i.e., replace them with proper funds)
- Whittaker did not say what he knew during this meeting
- He spoke with Tracy Clark briefly at some point; she acknowledged that she knew E&G funds had been used for TCH; she was very upset, crying
- He spoke with Lee Kernek by phone; she said she had notes of everything; she didn't say whether she knew that E&G funds had been used for TCH; she blamed Tracy and Christy and said Merck knew all about it; Kernek said her notes indicate that Hitt knew about it too (she referenced a meeting with Merck and Hitt); she also said that Whitaker was in a lot of meetings on this, implying he knew
- He spoke with Whitaker; Whitaker said he was in lots of meetings about TCH but his focus was on academic needs; he didn't understand the use of funds if that was discussed; he trusted Merck to handle; Scott asked him if aware that they were using prohibited funds to pay for TCH, and Whitaker said "Absolutely not"

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Dubuc, Donna (10/3/18)**

- Director, University Budget, Planning & Administration; report to Christy Tant
- Started at UCF in 12/11 as Assistant Director; reported to Tant
- Processed budget transfers; requests come from different departments
- Post to budget ledger
- Prepares different types of E&G budgets (includes state appropriation and carry forward) for all units of university
- Familiar with E&G Commitments List; maintained by Christy and Academic Affairs (Lynn Gonzalez and Provost, then more recently Megan Diehl)
- Christy "owned it"; was a living document; constantly changing as decisions made; stored on shared drive; Christy would ask her to make changes
- This list used to create Allocation Document (planned allocations of E&G for next FY); document used to distribute the E&G budget to the units (how much each gets)
- She knew TCH funded with carry forward E&G
- Did not know that E&G funds couldn't be used for new construction like TCH; no policies and received no training
- Not her job to evaluate proper use of funds; she just tracks and executes decisions made by management
- Aware of but not involved in preparing the Fund Balance Composition Reports that go to BOG; Megan prepared them the last few years; before that Christy did
- Megan left UCF recently for personal reasons; not because of audit or TCH
- Her office prepared Operating Budget Report that's submitted to the BOT for approval in May
- Not involved in State AG audit; Philip Henson asked him how TCH was funded; she said central carry forward funds; he asked if that was E&G, and she referred him to Christy

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Gonzalez, Lynn (10/4/18)**

- Associate Vice Provost for Academic Budget and Personnel Administration
- Started at UCF in 1994
- In 2005 became Associate VP for Academic Budget; in charge of academic budgeting; helped the Provost to allocate the academic budget (decide how to spend the money); the largest component of the budget was salary; she reported to the Provost (at time was Terry Hickey)
- There was a reorganization in 3/15 and she moved to Finance & Administration; new title was Director, Budget Initiatives; reports to Christy Tant; handles budget requests to legislature
- Knew E&G funds were state funds that had to be used to operate the university; thought could also be used for renovation (not aware of \$2MM cap); knew PECO funds were for new construction
- In 2013, she was still in the Provost's office; Tony Wadrop was Provost; he started holding weekly meetings called "Budget [something]"; there was a weekly placeholder on the calendar; held in Provost's office; initial attendees were her, the Provost, CFO (Merck), Tracy Clark and Christy Tant and Megan Diehl (thinks Vanessa Fortier had left before these meetings started)
- This meeting replaced the University Budget Committee which had been Chaired by the Provost and met until budget cuts in 2007; Tony started this meeting, said he had discussed with President Hitt
- Christy and Tracy brought a spreadsheet to these meetings called E&G Commitments list; anything they discussed spending money on would be added to it, like a placeholder; was not limited to E&G funds
- They shared the document with her so could see academic commitments
- When expenditures on the list were approved at these meetings, they were included on the Allocation document for the next fiscal year (document prepared by F&A, approved by President); she would receive a draft of the Allocation document and review it with the Provost
- Colbourn Hall renovation project was discussed at these meetings; who would go into the space after renovated, etc.

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulation of knowledge**

- Around September 2014, after Dale Whitaker was Provost, she learned that in addition to renovating CH they were going to build TCH; Whitaker asked Diane (Chase?) to look at the plans, and Diane asked her to do it (has emails with Diane about this)
- Can't recall much about discussion of CH/TCH from these budget meetings in 2013-2015; she was on reduced schedule at the time; doesn't recall those meetings clearly
- After issue came up recently, she talked to Megan Diehl and asked her if they had discussed CH/TCH and if anyone had expressed concerns about the funding source; Megan couldn't recall either; both were wracking their brains
- She wasn't very focused on capital projects; not part of academic budget; her only interest was who would go in the building
- She has searched emails; found E&G Commitment List from 2013 where CH is listed with \$10MM allocated, \$18MM in second year
- Recalls (or has found emails about) meeting with Dale in 2014 about who would go in renovated CH space; 9/14 email from him to her, Diane and others thanking them for helpful discussion
- Also saw email forwarded to her from Bill Merck to Lee Kernek and Tracy Clark, referencing a meeting with Dr. Hitt about TCH
- She doesn't know what Whitaker knew but documents clearly indicate source of funds for CH/TCH is E&G
- Assumes he would know that before meeting with Dr. Hitt about it (you didn't meet with Dr. Hitt unprepared)
- She was out most of 2016; husband had cancer
- She will forward us the emails she has found
- Christy alerted her to this issue during State AG audit; said auditors asked about funding for TCH; we told them E&G; Bill stepping down; you may be asked for info
- Christy asked her, "Do you remember talking about this during budget meetings?" She told Christy, "Not really"

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Henson, Phillip (10/3/18)**

- Director of Finance and Accounting department since 1/16
- Initially reported to Tracy Clark; started reported to Christy Tant in around 11/17
- Not involved in budgeting for capital projects
- E&G funds are drawn down from state and deposited into UCF master account; used for operating expenses (75% salary and benefits); knew these funds were not to be used for construction
- Unspent E&G funds (carry forward) considered "reserve" and all carry forward E&G for all departments referred to as the "central reserve"; just called that; not kept in segregated account; rather, all mixed together
- He was point of contact with auditor for AG Audit
- He first learned that E&G funds used for TCH project when Christy and her team sent schedule to auditor and identified funding source as "central reserve"; he knew then this would be an issue
- He told Christy the auditor wouldn't know what central reserve was, and he was right; the auditor asked them to clarify; they said it was carry forward E&G
- He met with Christy in her office and Christy confirmed she knew that E&G was used and that it would result in an audit comment; she said Merck was prepared for it
- He attended Audit Exit Conference; Merck said "I'll take the hit" for the TCH finding

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Hitt, John (10/24/18)**

- President Emeritus of UCF
- Served as President from 1992 until June 2018 (left campus and moved to Madison, Wisconsin on 6/27/18)
- Was an academic before becoming an administrator; taught psychology
- He hired Bill Merck in 1995, and his CFO responsibilities were added later; Merck was still CFO when he retired
- Provosts at UCF from 2013-2017 were Tony Waldrop, Diane Chase (Interim) and Dale Whitaker
- He had a "close relationship" with Merck; may have missed some things because too trusting of him; was very tired at the end

*Use of E&G Funds Generally*

- He knew generally that there were restrictions on how E&G funds could be used, but couldn't recite them
- Admitted he was not clear on the specific rules and "got slack" in later years
- He hired good people and trusted them to know the rules and do their jobs
- He considered "carry forward E&G" to be the same as E&G, and subject to the same rules

*Florida State Incident*

- He was not aware of a previous incident at FSU where they got in trouble for using carry forward E&G to build a new building
- He thinks some UCF personnel would likely have been aware of such an incident, however

*Budget Process at UCF*

- He started a Budget Planning Committee at UCF, chaired by the Executive Vice President and CFO (Merck); all VPs served on it
- Then budget cuts happened, the Committee stopped meeting and 2-3 key people made the decisions previously made by the Committee

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- The Committee was recently reinstituted
- He has no recollection of attending "Budget Review Meetings" with Merck and the Provost

*Colbourn Hall/Trevor Colbourn Hall Projects (General Recollection)*

- He had little involvement in these projects
- He does not have much recollection about the budget or funding for CH or TCH
- Recalls lots of discussion about the "best use of whatever money they had"
- Recalls lots of discussion about whether to renovate or demolish CH
- Recalls that studies were done of the building, and that they confirmed a new building was needed
- Recalls growing frustration over years about not receiving any PECO funds when UCF needed more space, and needed to get people out of unacceptable space (and recalls that CH/TCH was part of that discussion)
- He first learned of the controversy involving TCH in mid-August 2018
- Had no involvement in the AG audit; responded to no requests for information; he was on his way out the door; his last day on campus was on 6/27/18; was living in Madison when heard about this
- Was shocked to hear that the school had done something impermissible
- He said it seems clear that they did; said "it was a statute" (referring to the restrictions on use of E&G funds)

*Tab 1 - 2013-14 E&G Budget, Summary of Allocations and Reserve*

- He signed it on 8/13/13 but didn't read it, trusted people who prepared it and would ask them something like "are you sure this is right?" before signing it
- Tony Waldrop (Provost at time) would have just brought it to him to sign
- He didn't understand the purpose of this document
- Doesn't recall Colbourn Hall renovation being listed and can't explain why it was or what funds were to be used



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Tab 2 - 2/20/14 Meeting with Merck, Kernek and Whittaker (per Kernek Notes)*

- No recollection of this meeting or the discussion referenced in Kernek's notes

*Tab 3 - April 3, 2014 BOT Finance & Facilities Committee Meeting*

- He attended BOT meetings; was secretary, signed minutes
- He tried to attend Committee meetings, but not always available
- He thought the Finance & Facilities Committee was "well under control"; had talented people on it; he tried to stay out of the way
- Not sure if he attended this particular FFC meeting; no recollection of it or discussion of new renovation plan for CH (the construction of TCH)

*Tab 4 - May 22, 2014 BOT Meeting*

- Doesn't recall the Proposed Board Action re: CH renovations submitted by Merck
- Reading it now, the phrase "UCF non-recurring funds" in the document means "something like auxiliary reserves," not E&G; doesn't recall what he thought at the time
- If Merck had said E&G funds were being used, thinks he would have objected
- Doesn't recall discussion in the transcript (or what he understood Merck to mean when he said "we're basically having to take this out of our hide as well")
- Since not on Board, he didn't vote on this

*Tab 5 - 2014-15 E&G Budget, Summary of Allocations and Reserve*

- Doesn't recall this document or signing it
- Would have been very quick conversation about it, if any
- Doesn't recall Colbourn Hall renovation being listed and can't explain why it was or the increase in allocated funds to \$18 million, or what funds were to be used

*Tab 6 - January 20, 2015 Meeting with Dale Whittaker*

- Doesn't recall meeting with Whittaker about CH/TCH as described in the email from Bill Merck

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- The email from Merck doesn't surprise him, however; such a meeting may have happened
- Noted that there was no mention in Merck's email of the funds that would be used for the project (and doubts it would have been mentioned in any meeting with Whittaker either)

*Tab 7 - April 22, 2015 BOT Finance & Facilities Committee Meeting*

- Not sure if he attended this meeting (doesn't remember it)
- The transcript doesn't refresh his memory
- His interpretation of the discussion reflected in the transcript: Tracy was referring to using carry forward E&G funds to build TCH

*Tab 8 - May 20, 2015 Meeting with Bill Merck and Lee Kernek (per Kernek notes)*

- Can't explain entry on Merck's calendar ("Meeting with Dr. Hitt to discuss ROI documents to BOT and BOG"); not sure what that refers to
- Does not recall this meeting or the discussion reflected in Kernek's notes
- Based on the notes, agrees it looks like he agreed with using carry forward E&G funds to pay for TCH
- No recollection of Merck ever saying that the funds they were using for TCH may draw an audit comment or ding; thinks he would remember that

*Tab 9 - March 23, 2016 Meeting with Mike Morsberger, Bill Merck and Dale Whitaker*

- Does not recall this meeting
- He reviewed the "Capital Projects - Current Funding Plan" document that appears to have been discussed at the meeting; he agreed it shows E&G as the funding source for CH and TCH
- Said, "There's no good explanation for it" and that maybe he was preoccupied

*Tab 10 - Trevor Colbourn Hall Building Program (2/27/17)*

- Does not recall this document, although agrees he signed it; noted that he would not have looked into the details of the document when he signed it
- Could not explain the purpose of it

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Not familiar with BOB-2 form referenced on page 25 (does not think he ever reviewed that document)
- He reviewed Appendix C; could not explain what types of funds were included in "University Funding"; said "that could mean anything"

*Closing Remarks*

- He recalls that there was a lot of frustration about the lack of state funding for capital projects
- He doesn't remember making the decision to use E&G funds for CH/TCH, or having an understanding that this was an impermissible use of such funds
- However, he doesn't dispute what the documents show, including Kernek's notes, and he generally recalls discussions like the ones described
- He can also conceive of Merck saying they may get an audit ding for using E&G, although he has no specific recollection of this
- He accepts responsibility for what happened, even if he doesn't remember it
- He emphasized again his close relationship with Merck and said he may have missed some things; he was very tired at the end of his tenure as President

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Hodum, Brad (10/3/18)**

- Associate Controller, Finance & Accounting
- Started at UCF in 6/13; initially reported to Christy Tant; now reports to Philip Henson
- He runs General Accounting and Financial Reporting departments (handle all General Ledger posting, preparation of financial statements, etc.)
- Has two assistant controllers under him
- Was not aware of restrictions on use of E&G for new construction; had heard there were some sort of restrictions, but was not clear on the details
- Was not aware of \$2M cap on use of E&G for renovation projects until recently
- Knew that E&G was used for TCH project because of variance analyses he runs; didn't know if this was renovation or new construction; he works off-campus, didn't know details about the project or that was new building
- Never suspected misuse of funds; no one ever came to him and expressed concern
- Was not involved in AG audit; heard about TCH issue from Philip Henson; he had talked to Tracy and Christy; said this will be an audit finding; didn't think big deal; they get operating audit findings all the time
- When capital projects funded with PECO funds, his department draws down the money from the state (draw in arrears after money spent); money is received and then posted to project accounts
- When capital projects are funded with other funds, Facilities creates project in PeopleSoft and initiates transfer of funds (Megan Nelson in his department and Lashonda Brown in Facilities)
- If project funded with money from central reserves, then Tracy or Christy would direct the transfer and entry (oral conversation or email)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Hutson, Susan (11/16/18)**

- Assistant Director, Facilities Planning and Construction; reports to Bill Martin
- Started at UCF in 3/16
- Duties include "programming buildings"; this refers to meeting with the users of the building, discussing their needs and wants, and then drafting a narrative that explains it; this is put into a document which she gives to the architect
- She also is involved with the Campus Master Plan and archiving building plan materials

*TCH Building Program document*

- She drafted it (but elsewhere my notes indicate she said that she didn't draft it and just put the information into her preferred format?)
- Had never done one of these before
- The document was in-process when she started at UCF; the architect, Shinkle Shultz (?), had started one
- She also reviewed a go-by from Pete Neuman; but she didn't keep it
- It took her around 2 months to draft this; Lee reviewed the draft; Bill Martin and Montel Watson also reviewed it
- The final "draft" was sent out to every Dean and VP to review
- Gina Seabrook was not involved in drafting the document
- She drafted the "detailed timeline" that appears at pp. 25-26 in Section 4.0 (Analysis of Impact on the Campus Master Plan Update)
- She included this information because she thought it would be helpful; Lee did not ask her to include it; she acknowledged that this was not necessary to answer the question on p. 24 that preceded it, "If the project will require an amendment to the University of Central Florida 2015-2025 Campus Master Plan Update, provide information for the amendment."
- She included the reference to the BOB-2 form on p. 26 because that was part of the Capital Improvement Plan approved by the BOT on 7/28/16

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- In describing the BOB-2 form, she included the statement that TCH was "funded by E&G" because that's what the form says; she acknowledged that there was other information on the BOB-2 form that she elected not to include; she did not recall Lee specifically asking her to include this information
- She prepared Appendix C entitled "Program Funds" using information provided to her by Lee or Bill
- She does not know what the term "University Funding" means; she was given that term by Lee or Bill
- She had no knowledge of how TCH was being funded; she also had no understanding of the rules regarding what funds can be used for capital projects
- After the document was completed, it was circulated for signatures; there was no meeting held or formal presentation of it
- It was not presented to the BOT or submitted to the BOG (to her knowledge)
- Prior versions of the document should be attached to emails she exchanged with Lee and Bill
- She may have also saved prior versions to the shared drive used by Facilities

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Jones, Tim (10/18/18)**

- Vice Chancellor for Finance and Administration and CFO, Board of Governors
- In June, BOG sends base budgets approved by legislature to schools; also requests each school's legislative priorities for the next session
- During the summer, schools submit their "incremental priorities" (additional funding they want and for what); schools assume they'll get their "base budget" from the preceding year; seeking incremental increases in their budget
- In September, BOG considers budget requests from schools; focuses on system initiatives; approves single budget request for the system
- On October 15, the BOG submits its Legislative Budget Request (LBR) to the legislature and Governor; identifies system initiatives only (not individual university initiatives)
- Between January and March, legislative meetings are held, where the universities lobby for their own initiatives (their incremental priorities request); seek legislative sponsor to sponsor bill for the appropriation; hundreds of bills are filed for these funding requests
- Legislature decides and passes a general appropriations act with budget for entire state; includes line items for each university, showing how much money they're getting (at least base budget plus any incremental); Governor adopts budget, and is effective on July 1
- UCF must have budget approved by its BOT by July 1
- They develop high level budget and submit it to the BOG in June
- More detailed budgets are required in August (include categories like salary/benefits, expenses, etc.); these are approved by BOG in September
- Operating Budgets (Reports 652 and 566) submitted to BOG in August show how carry forward funds were spent in prior fiscal year (expenditures on TCH were buried in one of the operating categories)
- Also in August, schools submit Fund Balance Composition Report to the BOG
- Fund Balance Composition Report shows the carry forward balance (unspent operating funds from the preceding fiscal year) and how plan to use it in the coming fiscal year (including contractual obligations and commitment category, i.e., how want to spend but not contractually obligated)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- One of categories in report is "Repair, Maintenance & Renovation"; this is where UCF reported the planned expenditure of carry forward E&G on TCH; it "never dawned on us" that a school would include expenditures on a new building here
- BOG asks schools to update this in December to show how school is actually spending the carry forward funds
- If had realized this, it would have been escalated to the Chancellor and the funds would have been restored
- BOB-2 form requests approval for operating funds for building that's planned in the future; if not approved, you may have to pay operating costs yourself
- The BOB-2 goes to the BOG for review
- He has recently seen that some of the BOB-2 forms submitted by UCF listed TCH and indicated that the source of funds was E&G; he didn't notice this at the time; didn't tip him off that UCF was using E&G to build TCH
- E&G funds can only be used for operating activities per the regulations (Sec. 255)
- Historical exception is that up to \$2 million in E&G funds can be used for renovation and repairs
- Thinks everyone knows about this cap; gets lots of questions about whether certain type of renovation qualifies for the cap
- Same rules apply to carry forward E&G funds; regulations were amended to clarify this after incident involving FSU around 10 years ago; they used carry forward E&G to build the Turnbull Center; claimed they didn't know E&G rules applied to carry forward E&G
- No regular communications or newsletters sent to schools; no training or formal guidance
- But lots of communications with CFOs of schools at BOG meetings; meet quarterly and lots of emails; very active group
- He dealt with Bill Merck a lot; dealt some with Tracy Clark (wouldn't recognize her)
- Had no dialogue with UCF re: TCH or use of carry forward E&G



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Kernek, Lee (9/26/18)**

- Joined UCF in 2007 as Associate VP of Facilities, Planning and Construction
- Has reported to Bill Merck the whole time

*Capital Projects Funding Process*

- Definition of "capital project" = > \$2MM construction cost (whether renovation/repair or new construction); this is per the regulations
- Types of state funds for capital projects: PECO, Capital Improvement Trust Fund (CITF) (these are from student fees), and other (economic development funds)
- Types of non-state funds for capital projects: auxiliary, debt, donor
- Five Year Capital Improvement Plan (CIP); prepared annually by her office; she reviews/approves
- Process of preparing the CIP has changed over time
- Currently, Merck, President and Provost review and decide on final CIP; it's then presented to the BOT F&F Committee; if they approve, it goes to the BOT for approval; the plan is then submitted to the BOG and then the Legislature, who decides what projects to fund
- UCF lobbyist reports what got funded; also communicated by BOG staff
- Back of Bill (BOB) form; part of CIP plan; identifies source of funding for projects
- TC Hall project was listed on the BOB form as being funded by E&G
- Capital Outlay Budget; annual budget presented by her and Merck to BOT F&F Committee, usually in May (for the next fiscal year)
- **She did not know that E&G funds couldn't be used for capital projects until this year after State AG Audit**
- Plant Operations and Maintenance (PO&M) funds are funded with E&G funds; she didn't know that either until recently

*Colbourn Hall Renovation/Trevor Colbourn Hall Construction*

- Colbourn Hall was listed on CIP as renovation project for while

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- No one person assigned to the project
- Studies revealed major problems with the building; became clear that would be big job
- She contacted Chris Kinsley at the BOG at some point; thinks it was in the Spring (out of cycle); she asked if there were any funds available to renovate Colbourn; he said no, you're on your own (she has notes of this call)
- The source of funds for the project changed over time
- In September 2014, she attended a meeting where Tracy Clark told Merck that \$9MM was allocated for Colbourn Hall; Tracy said an auditor said this was a problem because using E&G funds, might have to repay; Merck said he didn't see any other way; the building was dangerous so they need to proceed; Merck said he would have to inform the President
- There was another meeting with the Provost (Tony Waldrop or Diane Chase) where this issue was discussed

*Responses to Key Questions*

- Question: "Did you know prior to April 2018 that E&G funds were used to pay for the construction of TC Hall?" Answer: "I knew some E&G funds were used" She explained that this was based on her attendance at various meetings and her notes of those meetings.
- Question: "What other funds besides E&G did you understand were being used?" Answer: "I don't know."
- Question: "Did you know prior to April 2018 that E&G funds could not be used to pay for the construction of a new building?" Answer: "No, I researched that on September 10, 2018."

*Notes of Meetings re: TC Hall*

- 2/20/14- Merck, Hitt, Provost (Tony or Diane) and her; \$10MM of \$18MM cost for Colbourn Hall renovation was unfunded; \$5MM from academic (now thinks that's E&G); \$5MM from auxiliary; "Pay back into accounts later"; Lynn Gonzalez said Tracy Clark was "looking for from ?"
- April 2014- Call with Chris Kinsley where he said "you're on your own"; they didn't discuss E&G funds specifically

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- 8/13/14- her and Merck; cost estimates for Colbourn Hall renovation up to \$28MM; \$10MM transferred; \$18MM to be transferred in FY 2015
- 9/27/14- her and Merck in Merck's office; Tracy joined them; Auditor concerned about \$9.8MM transfer for construction of Colbourn; Bill said he expects audit comment re: use of operating funds to build TC Hall; asked what's the alternative? The building is unsafe; Her notes say "Merck to let President know about audit issue"
- She didn't ask Merck what auditor's concerns were or why this would lead to an audit comment or what that was; "I should have"
- 5/20/15- Merck, Hitt and her; reviewing CIP; no \$ from state for Colbourn; have to do ourselves; may have to pull from carry forward balance; may take audit ding; can't wait; state after us on carry forward balance (need to spend); President agrees; have to do, no choice.
- She wasn't alarmed; should have asked questions; thought it was not a big deal
- Doesn't recall other meetings re: funding of TC Hall project in 2016-2017 but needs to check notes

*BOT Meetings re: TC Hall*

- 4/3/14- BOT F&F Meeting; she attended and has the data that was presented; there was an option sheet; no discussion of funding source for TC Hall
- 5/22/14- BOT Meeting; doesn't recall if she attended or if funding source was discussed; assumes Merck prepared the proposed Board action; she probably saw it but didn't focus on "UCF non-recurring funds" language at the time; she still doesn't understand what it means today

*Dale Whitaker*

- He claims to have no knowledge that E&G funds were used
- That's not true; Tracy Clark has documents that disprove this
- Also, the TC Hall Building Program (must be completed to get PECO funding) says on page 26 that the project is being funded by E&G funds
- That document was signed by Whitaker and Hitt (and her and Merck and others)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Kinsley, Chris (10/2/18)**

- Assistant Vice Chair, Finance & Facilities, BOG
- His unit responsible for two main things: state appropriations for capital projects and projects not funded by state (with bonds, etc.)
- He then explained the process for state appropriated projects
- Florida law requires universities to adopt a 5 year Capital Improvement Plan (CIP); the CIP lists capital projects and how plan to fund them (PECO, Capital Improvements Trust Fund (CITF), non-state sources and debt mechanism)
- BOT approves the CIP, then it's submitted to the BOG; BOG staff holds Facilities Workshop to help schools choose shortlist of projects; those are presented to the Board by the universities; then Board recommends projects to Legislature (as part of Legislative Budget Request); Legislature decides and then Governor approves or vetoes
- It typically takes a capital project 3-5 years to get funded
- The timeline is as follows:
  - August 1st CIPs are due to BOG
  - Late September/Early October - BOG staff holds Facilities Workshop
  - November/January - BOG submits Legislative Budget Request (with capital projects it supports for each university)
  - January-February or March-April - Session meets
  - After Session, see what projects approved
  - May-June - Tell Universities what projects approved
- For project to be eligible for PECO funds, must do survey and show need (Educational Survey Process)
- TCH was survey recommended and ultimately included in CIP; just not chosen for funding request by BOG (or funded by Legislature, obviously); never made the short list
- UCF did everything right with TCH (followed proper procedures), except for the funding source (not authorized to use E&G carry forward funds)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Discussed BOB form (part of CIP); only one section relevant here, the BOB-2; if university is building educational space, and wants funding in the future to operate that building (to pay for Plant Operations & Maintenance expenses), need prior approval from the state (this is legally required)
- That is done through this form; there are no PECO projects listed because those projects are automatically funded; so only list projects you're building with non-state funds
- In 2015, UCF asked for approval for TCH in the BOB-2; in other words, they asked for the state to approve the payment of operating costs in the future once the building was constructed; BOG approved and the Legislature approved; no secret they were building TCH [NOTE: We did not ask him about the fact that the form lists E&G as the funding source]
- Recalls that the renovation of Colbourn Hall was on a CIP; #7 or #8 on priority list; agreed building in bad shape; asked Lee Kernek why it wasn't listed higher; he told her you're not going to get PECO funds unless it's higher; he asked her what's your plan?
- Then he recalls that the engineering report came out and building was in worse shape than he thought; would cost more than anticipated to renovate; had more conversations with Lee Kernek; he began to wonder if made more sense to building new building
- In around February 2015, he told Kernek his concerns; not high on priority list; can't recommend funding of renovation, should just knock down; she was concerned about demolishing the building
- About a month later he talked to both Kernek and Merck; they agreed it was too expensive to save Colbourn Hall; he was glad to hear that, made sense; they said going to build a new building; he asked where the money would come from; they said they had figured out a way to do it
- Merck said "We will use our own funding"; he also said maybe we'll get some PECO, but if not we'll do it ourselves
- He wondered at the time where the money would come from; assumed Merck was referring to auxiliary funds, a donor, the foundation, etc.
- He didn't think any further about it; not sure if they listed it on CIP again after this
- We asked, "Do you feel misled or deceived?" He said "I don't feel deceived as it relates to the facilities process"; no falsified documents or reports to his knowledge

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Talked to Merck on phone after State AG audit (on morning of BOG meeting on 9/13/18); Merck said he felt he had no choice; it was a bad building, was a health and safety issue; someone had to do something; he made decision

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Kinsley, Chris (10/2/18)**

- He distinctly recalls speaking with Merck and Kernek about the decision to build TCH. He asked how they were going to pay for it since no PECO funds were available, and they (he's not sure which one) indicated they had found a way, and then Merck said "we'll use our funding," which he interpreted to mean non-state funds. Merck also said that they'd ask for PECO funds, but if they didn't get any, they'd do it themselves.
- He does not recall the exact date of this conversation but obviously it was after the decision to build TCH rather than merely renovate CH, so presumably it was sometime in 2014 or 2015 (he thinks it would have been around the first time they listed TCH on the CIP, and that this may have prompted the discussion). He does not recall if it was a phone call or in person. He has no notes of it.
- He agreed that his email to Kernek on 12/11/15 re: office sizes in TCH, where he referred to TCH as "internally funded space," corroborates this conversation and reflects his understanding that UCF was paying for TCH with its own funds.
- He had found some emails with Kernek in July 2016 re: the process for demolishing CH, the survey requirement, etc. We have those as well and they should be in the Chron. He said that while CH met the legal criteria for demolition, and was not worth saving, it was never presented to him by Merck or Kernek as an emergency situation or that the building posed an imminent threat to the health and safety of the occupants. He said if they had, and it truly was an emergency, they would have "fast tracked" the approval process for the demolition (he said as it is, they followed the standard procedure, which can take several months).
- He stressed that no one ever told him that CH was an emergency situation or that the building was dangerous. The decision to demolish CH was a financial one; it was determined that the cost of renovating the building didn't make sense when compared to the cost of building a brand new building (there's some sort of formula that dictates when it makes sense to renovate versus just tear down and start over).
- He confirmed that he (and the BOG staff) have no documents (guidance, training materials, etc.) re: the proper uses of E&G for capital projects. He gets lots of questions from schools about whether E&G can be used for certain things, but those communications are all verbal.

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Korosec, Ronnie (12/14/18)**

- Associate Provost for Operations and Chief of Staff for Provost
- Started at UCF in ?
- She regularly attended the Budget Operations Group meetings (Tuesday mornings in Whittaker's office, formerly called Budget Chats), beginning in around 8/14
- These were led by Merck and Tracy (Tracy organized); everyone relied on their financial expertise
- She recalls discussion of CH/TCH during these meetings in 2014-2015; complaints about CH, the need to renovate, etc.
- With respect to funding specifically, she recalls there being general frustration about not having money to do the project
- Then one day Bill and Tracy announced they had found a way to pay for it
- She has a specific recollection of this meeting, which was in Merck's office (rather than Whittaker's); she recalls how excited Bill and Tracy were
- She doesn't recall them identifying the specific source of funds; they just indicated they had cobbled some money together, used savings, and freed up resources they had been holding for something else
- She doesn't recall the terms E&G or carry forward E&G being used, although they wouldn't have meant anything to her (she didn't know the restrictions on E&G)
- She said they definitely did not mention any concerns about using the funds or say it might result in an audit comment
- She thinks this meeting was sometime prior to 1/2015 (when Whittaker pitched the two building solution to Hitt, and Hitt greenlighted it, including the budget of \$38M)
- She says they wouldn't have gone to Hitt without having the funding lined up



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Martin, Bill (10/3/18)**

- Director, Facilities Planning & Construction
- Joined UCF in 2/14 as Associate Director of Design in Facilities, Planning & Construction; reported to Bob Mason, Director at time
- Mason retired in 4/15, and Bill became Interim Director, and then Director; reports to Lee Kernek
- He oversees renovation and construction projects, not the operation of facilities
- The Capital Improvements Plan (CIP) is prepared by Facilities (Lee Kernek and Gina Seabrook); historically, Kernek would meet with Merck and Provost to decide on priority of projects (how to rank them on CIP); now the UCF Facilities Budget Committee is part of that process; the CIP is ultimately presented to the BOT for approval
- He was never involved with CIP or discussions about funding sources for projects
- His job is "executing the projects" that are decided on; planning them, overseeing the construction/renovation work, etc.
- He was not aware of restrictions on use of E&G funds prior to this issue coming to light; but never discussed funding sources for projects; not something that mattered to him
- Not involved with preparation of Capital Outlay Budget; assumes Kernek and Facilities Business Office prepare (Lashonda Brown)
- Every capital project has a construction account assigned to it; funds are transferred to these accounts from campus groups or Finance & Accounting
- He worked for architecture firm (Shinkle Shultz) in Orlando that designed TCH, so was familiar with the project even before joined UCF; was also familiar with the evaluation of CH done by Rad Tanis
- Was aware that the CH renovation project made it to the CIP
- When he joined UCF in 2/14, they were advertising for architect to renovate CH; hired his former firm, Shinkle Shultz
- He didn't know what plans were to pay for this project or what funding source was; knew not PECO funds

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He did not attend the BOT Finance & Facilities Committee meeting on 4/3/14; had just started, and not a Director yet
- In Spring 2016, they decided it was too expensive to renovate CH and that it made more sense to demolish CH and build an entirely new building; he was very involved in the analysis that went into this
- He first learned that E&G funds had been used to pay for TCH around 2 months ago; Bill Merck called him and asked for breakdown of spending on the project (Lee was out of the office); he emailed Merck a spreadsheet with this info; Merck said something about there being concern over the sources of funding
- Learned later that it was a big deal that E&G funds were used; at time of call with Merck, that meant nothing to him
- At some point in or around August, Lee told him this was a problem, E&G funds shouldn't have been used, Merck being investigated, audit going on, etc. His impression was that Lee knew E&G funds shouldn't have been used for the project and was surprised to learn that they had been used
- He researched the BOG regulations himself in effort to understand the issue; saw that E&G only permitted for operating expenses; admits that he probably should have known this, was a "gap in his knowledge"
- They have insufficient resources in Facilities; too many projects, not enough controls
- They did consider where to relocate people from CH (temporary buildings, trailers, etc.); occupants were not in imminent danger; there was no structural issue with CH, not about to fall down; EH&S studies showed it was safe; mechanical systems were failing though, there was water intrusion and humidity problems, etc.

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Mitchell, Kathy (9/26/18)**

- Interim Chief Financial Officer and Associate Director University Audit
- University Budget Committee formed in around 2014 to decide what need, what can pay for, what to ask the State for, etc.; Tracy Clark is on this
- Facilities Budget Committee formed more recently (2017?) to decide specifically what capital projects to do, how to prioritize them, etc.; that info is then presented to the UBC; Lee Kernek and Bill Merck attended these
- Jeff Brizendine was the State AG auditor in charge of the recent operational audit
- She learned of E&G issue related to TCH in June or July during audit
- She spoke to Tracy, Christy and Lee during the audit as she was trying to understand the issue, what happened; three separate conversations
- Spoke to Tracy in person; Tracy said she told Merck it was wrong, that it was not a correct use of funds; Merck told her that's what we're doing and to make the entries; Merck told her he had discussed it with John Hitt, and Hitt said to proceed; she didn't report this to anyone because felt she had no choice, feared she would lose job; she said Christy Tant also knew
- Spoke to Christy in person (more recently); she said pretty much the same thing as Tracy; didn't think it was right but Merck said he'd take the audit criticism, and that they'd repay if had to using other funds; she also felt she had no choice
- Spoke to Lee right after BOT meeting on 9/6/17; Lee called her; Lee said she was in the room with Merck and Hitt when the issue was discussed; Merck said they were using E&G funds for TCH and Hitt said to proceed
- Spoke to Lee again later (when Lee was in England); Lee said people weren't being honest about what they knew (thinks she was referring to Dale Whitaker); Lee said again that she was in the room when people were told where money coming from
- Spoke to John Pittman in person recently; he was close to Merck; said it was a "well known decision" (referring to the use of E&G funds to pay for TCH); not made in a vacuum; he didn't accuse Hitt or Whitaker
- Has had no discussions with Whitaker or Hitt

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Checked Audit dept records; no audits on source of funds for capital projects; checked advisory services records also; no questions about TCH, use of funds

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Morsberger, Mike (12/5/18)**

- Vice President for Advancement and CEO of UCF Foundation
- Started in 5/15; reports to President and CEO of Foundation
- 15-20% of money he raises is designated by donors for capital projects; mainly for new buildings
- Not very involved with TCH; never became a philanthropic priority
- Met with Mrs. Colbourn (wife of former UCF President) in Spring or Summer of 2018(?) about whether she was interested in contributing to construction of TCH; she said no
- Saw Merck at weekly VP meetings; little interaction with Kernek
- 3/23/16 meeting with Hitt, Whittaker and Merck is on his calendar; has no notes from it; his role in meeting was to identify what projects had "fundraising sizzle," i.e., which projects could they interest donors in
- Thinks primary focus was on downtown campus; about one month prior to this he had received \$20M in commitments (pledges) for downtown building
- Doesn't recall Capital Projects List, although has seen similar documents before
- Doesn't clearly recall the meeting; assumes Merck did most of talking, walked through different projects; doesn't recall what decisions were made
- Recalls no specific discussion of CH/TCH; definitely no discussion of TCH as fundraising opportunity
- Not aware at time of restrictions on use of E&G funds; only learned recently; so fact that Capital Projects List showed some projects funded by E&G didn't mean anything to him at the time

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Nelson, Meghan (10/3/18)**

- Accounting Coordinator since 6/13; in General Accounting department (overseen by Brad Hodum); report to Meghan Carrigan
- Started handling "construction accounting" in 2014; did together with Wilson Rosario (now retired) for first year
- Detailed discussion of how construction projects are coded in GL and accounts set up, interaction with Facilities accountants (people working under Lashonda like Nestor Garcia)
- Initiated by Facilities; info she receives includes source of funds (E&G, Auxiliary, etc.); she can tell by 8 digit number (E&G is Fund 10001)
- PECO projects handled differently
- And funding for big projects handled differently too (Christy Tant would come to her directly about these, tell her funding plan, send email with support for funds to be used, etc.)
- Funding decisions for projects already made when comes to her; she's just the processor; no involvement in deciding what funds to use for project or evaluating propriety
- She also handles budget journal entries
- Did not know prior to AG Audit that E&G couldn't be used for new construction project like TCH; **no policies, no training**
- She just thought E&G couldn't be used for food or entertainment
- Talked to her counterpart in Facilities (Nestor Garcia, accounting coordinator under Lashonda) after this issue came out and he didn't seem to know about restrictions on use of E&G
- Not sure of her involvement with CH/TCH; may have set up projects; knows there were two construction projects set up on system, renovation and construction
- May have made some of transfers, though not the large ones

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Pittman, John (9/26/18)**

- Joined UCF in 3/2000; Currently serves as Associate VP for Debt and Revenue Management; reported to Merck before he retired
- Not involved in capital projects unless they involve debt issuance (bonds)
- Attends Board of Trustee Finance and Facilities Committee (FFC) meetings
- Debt was never considered to fund TCH construction, so not involved with that project
- Did not know what funds were used to pay for construction of TCH because not involved
- Knows they were being creative in finding funding for projects, since no PECO funds for several years
- He is generally familiar with the different types of state funds they receive (tuition, E&G, PECO, CITF, etc.)
- He knows that you can't use E&G funds to construct a new building; that's generally known at the university; he knew this before AG Audit and this issue surfaced
- Doesn't recall the 4/3/14 FFC meeting where TCH discussed
- Doesn't recall the 5/22/14 BOT meeting where Board approved construction of TCH (although acknowledges he attended per minutes and gave presentation); doesn't recall any discussion of source of funds for TCH
- Reference to "UCF non-recurring funds" in proposed Board action at 5/22/14 meeting means E&G carry forward funds (to him); recurring funds are appropriated/budgeted; he doesn't recall seeing this document at time though or thinking anything about it
- Recalls Merck saying that they would probably take an audit hit for funding of TCH; said that in more than one meeting; not sure of dates; not unusual for Merck to say that; didn't seem like big deal
- Never had one-on-one discussion with Merck specifically about TCH
- Became bigger deal after State AG Exit Conference; about one week before Merck retired, he said they needed to replace the funds used for TCH
- Pittman called me after the interview and said he remembered a one-one-one conversation with Merck about TCH; it took place in Merck's office; it was after the BOT met on 9/6/18 and were told about the misuse of funds and that Merck retiring

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- In that conversation, Merck shared his justification for using E&G funds; he also said he didn't tell the BOT about the source of funds for the project because if did, they'd say no; he thought it was important for the building to get done, and would do the same thing over again
- Pittman said he just listened to Merck



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Pittman, John (12/7/18)**

- Now claims he did not know the restrictions on use of E&G; **said he only knew you couldn't buy food with that money**

*Tab 1*

- Doesn't recall being notified of this transfer
- He was Budget Officer for Administration and Finance ("A&F") division of university; Facilities was unit within the division
- Any transfer of funds within A&F, or from A&F to another division, had to be authorized by him
- Here, money was coming from central reserve to a department in A&F; that's why he was involved
- The department in question rolled up into the Facilities Unit, which rolled up into A&F
- Donna DuBuc works in Budget Office; that's why she's copied
- Waldrop (Provost at time) and Gonzalez (Budget Director for Academic Affairs) copied because this involves an academic building
- He assumes this was forwarded to him and that he approved it
- He did not review whether these transfers were appropriate (i.e., if funds source was permissible); he was a rubber stamp; this was a formality; just an administrative duty for him; he did not dig into the details; would approve lots of these

*Tab 2*

- Same response as to Tab 1
- Doesn't recall, not his building

*Tab 3*

- **Recalls that at some point Merck had asked him to track capital projects and funding source/status; assumes it was around time of this email (10/15) and that's why he was asking Tracy for it**
- Why? Because debt might be issued to fund projects; **he also had experience from big Convocation project;** and because #s were involved, and he's good with #s

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He didn't handle the spreadsheet for long
- Described himself as a "scribe"; would get emails with updates for the spreadsheet which he would make; not making any funding decisions; just recording the decisions that have been made, just keeping notes, tracking the decisions

*Tab 4*

- Recognizes the first spreadsheet (**Capital Projects - Current Funding Plan**); thinks that was one he maintained briefly; but has seen both before
- Projects that were already funded were not a focus; and CH/TCH were already funded
- **He was focused on how to fund Band building; involved in discussions about that**
- When pointed out that E&G used for Band building, he said he wasn't in control of the project, and also **didn't know about the restrictions on E&G at the time**
- Not involved in discussions about CH/TCH or any other projects on the list except the Band building
- Would get info about other projects and simply update list without much thought because not involved
- Tracy generally kept the **master Capital Projects list, other** than the brief period he did

*Tab 5*

- See that **Tracy/Christy took back over responsibility for the Capital Projects list in 3/16**
- Knew he only handled that for short time

*Tab 6*

- Asked why Lee sent him this spreadsheet ("**Projects Requiring University Funds**") in 3/16
- Spreadsheet lists both TCH and CH and indicates funding source is E&G
- Responded that Lee must have thought he was still maintaining the Capital Projects list; wanted him to have info

*Tab 7*

- No explanation for this; not sure why Lee would ask Tracy to send this info to both of them if he was no longer maintaining the spreadsheet

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

*Tab 8*

- See that as of 6/16 Christy had taken back over responsibility for the Capital Projects spreadsheet
- So looks like he only maintained the spreadsheet from late 2015 to mid 2016

*Miscellaneous*

- Clarified statements from prior interview; when said before that Merck had said in several meetings they would take an audit hit for TCH, he was talking about comments Merck made during the AG audit in 2018; he was not talking about comments Merck made earlier in time
- Denied that he had changed his statement from last time about his knowledge of E&G rules
- When confronted with fact that last time he told us he didn't know how TCH was funded, and now we've seen a spreadsheet he maintained that indicated it was funded with E&G, he said **he didn't know but wasn't surprised**

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Schell, Rick (10/3/18)**

- Vice President and Chief of Staff for President Hitt from 1999-7/30/18
- Served as liaison between University and BOT (Assistant Secretary to BOT)
- Hitt met with all VPs every Tuesday morning from 9-12; Merck attended those meetings along with Provost (technically a VP); he attended and served as secretary for the group
- Heard about capital projects in VP meetings; but not in any detail
- Hitt and Merck met one-on-one also; he did not attend those meetings
- TCH was in horrible condition (he taught there for 10 years)
- Recalls discussions about the building being unsafe, probably at BOT Finance and Facilities Committee meetings; wasn't part of conversations about what to do
- He wasn't aware that you couldn't use E&G funds for new construction
- Capital projects and funding of them wasn't "in his portfolio"
- Two times a year, Lee Kernek gave a presentation in the Board room entitled "Capital Program"; there was a PowerPoint but no other materials; Merck organized it; President Hitt attended along with VPs; Lee's whole staff was there; she always identified the source of funds for projects (self-funded was one type)
- He had no idea what funds were used to build TCH; he knew they were "self-funding" it, that is, not using PECO funds, but he didn't know how
- Had no discussions with Hitt about TCH and misuse of funds after issue surfaced during State AG audit; doesn't know if Hitt knew that E&G funds were used, or that this was improper
- Sandy Cherepow prepared Hitt's schedule, kept his calendar

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Seabrook, Gina (10/4/18)**

- Title is Construction Specialist; reports to Shelly King (handled contracts); but works more closely with Lee Kernek
- Has worked at UCF for 30 years, mostly in Facilities, Planning & Construction (name has changed over time)
- She's involved in selecting architects and contractors for projects
- Helps prepare the Five-year Capital Improvement Plan (CIP) and Capital Outlay Budget
- The CIP must be approved by the BOT and submitted to the BOG staff by August 1st
- We discussed the process for preparing the CIP:
  - She prepares Attachment A, which is the list of future capital projects
  - Like a wish list
  - Shows estimated cost for each project by year over 5 years; if project not funded, then move to next year; if funded, then cross off the list; if partially funded, adjust dollar value
  - She gives to Lee to review; Lee shares it with Merck, the Provost and President; they make changes; she doesn't attend those meetings
  - Final version is presented to BOT for approval, then submitted to BOG staff
  - BOG staff reviews and chooses subset of projects to support
- The CIP list is divided into categories based on funding source, state (PECO or other) and non-state
- There is no category for projects funded by E&G; issue had never come up before; had never done project paid for with that type of funds; was familiar with the term but didn't know of restrictions on use
- The CIP only lists "major projects" = > \$2MM
- Projects can include renovation, expansion, repair and new construction
- She included the Colbourn Hall renovation project on CIP for first time in 2012 (for the CIP covering years 2013-2014 to 2017-2018); it was listed #3 under "Requests from

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

Other State Sources" and the planned expense for "P, C, E" (Planning, Construction and Equipment") was around \$7MM in 2015-2016

- Not sure why it wasn't listed under PECO category; assumes other projects on PECO list were higher priority
- In 2013 she listed CH again under Other State Sources, though moved up from #3 to #2
- In 2014, she listed both projects, CH and TCH, under PECO category in CIP for first time; explained that priority had changed, building in bad shape (maybe study had come out?); BOG staff did not support either project
- In 2015, she listed CH under PECO and TCH under the Other State Sources; the latter was informational; just telling BOG they may use other funds for TCH
- She prepares the BOB Forms also (Attachments B & C of CIP)
- She prepared the BOB-2 in 2015 that lists TCH and identifies E&G as the funding source; thinks she decided to indicated E&G on her own **[WHY?]**; was reviewed by Lee, Merck and others; no one asked any questions **[NOTE: Need to question her more about how she prepares this, what info she uses, and how she knew that E&G was planned funding source for TCH]**
- We then discussed the Capital Outlay Budget, which she also prepares
  - This is prepared using a form provided by the BOG; shows proposed expenditures on projects; approved by BOT and then submitted to BOG; must be approved by Legislature
  - TCH was not included; was a mistake, it should have been; doesn't know why it wasn't
  - All projects should be listed, whether funded or not
- We then discussed the TCH Building Program document
  - These are done for every project on the PECO list
  - Not submitted with the CIP; supposed to go to the BOG after project approved and funded
  - She sometimes works on these, though not really her job
  - She started the one for CH Renovation; worked on draft

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Also worked on the one for TCH in 2017
- **[NOTE: We did not ask her about the reference to E&G in the document or the appendix about source of funds]**
- She never attended the BOT Finance & Facilities Committee meetings
- She never met with Merck about capital projects; only Lee
- She attends the University Budget Committee meetings now; explains the CIP
- During the State AG audit, the auditor (Jeff) asked her how 3 projects (including TCH) were funded; she said she had no idea; she asked the Facilities Business Office (Lashonda Brown?) and they also had no idea; finally asked Finance & Accounting to answer; they said "University Reserves"; Jeff asked them for more specifics
- She wasn't concerned until heard from Jeff that E&G funds were used and that those funds have restrictions on use; she's known Jeff a long time
- No specific discussions with Lee about the issue and what she knew; but Lee acted surprised about the whole thing

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Seabrook, Gina (11/14/18)**

- Discussed process of how Capital Outlay Budget (COB) is prepared and what different sections of report mean
- There are no instructions for preparing this that she knows of; they've used same report template forever
- She is primary author, Lee reviews and approves, then they give to Tracy to include in materials for FFC meeting (she doesn't attend FFC meetings)
- Estimated cost of projects usually comes from Capital Improvement Plan (CIP)
- She doesn't think they're asking permission from the BOT to do the projects listed in the COB; rather, they're telling them what projects they'll do if funded
- The COBs only go to BOT, not the BOG
- We then discussed specific COBs and where CH/TCH were listed
- Discussed process of how CIP prepared; begins in Feb/March; start with CIP from prior year and make adjustments (remove funded projects, move years forward, etc.)
- She is primary author, Lee reviews and approves, then Lee meets with Merck and Provost, then Lee meets with President
- Final version goes to FFC and then BOT
- BOB-2 form is prepared as part of CIP process; all one document
- Explained that purpose of BOB-2 is to secure future funding of PO&M by state
- Not supposed to include PECO or CITF funded projects on the BOB-2, because those projects are automatically funded for PO&M; but sometimes they list PECO projects anyway, such as in the 2013-2014 CIP (Lee asked her to include them as precaution); later Chris Kinsley at BOG asked Lee not to do that and they stopped
- Projects listed are supposed to be 2 years away from completion (at earliest)
- Discussed specific BOB-2 forms and why CH/TCH listed or not
- She's involved in most projects so knows funding source to list for BOB-2; if doesn't know, will ask Lee or the Facilities Business Office



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Lee told her to use E&G as default category for funding source on BOB-2; if don't know funding source, put E&G, change later
- That's why she listed E&G as funding source for TCH in 2015-2016 BOB-2 form
- Never listed CH on BOB-2 because was an existing building, state had already approved funding of operating expenses

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Seabrook, Gina (11/15/18)**

- Discussed TCH Building Program document and process for creating
- Susan Hutson was primary author (she started the document and then Susan took it over)
- Thinks Susan drafted Appendix C (Program Funds); "University Funding" was new category added a few years ago when stopped getting PECO funds; doesn't recall discussion about it
- Agrees that the timeline on page 25-26 is unusually detailed; normally they just indicate that Board approved the project; doesn't know why Susan did this
- Once document drafted, Lee reviews, then goes through revision process; then circulated among different departments for review and comment; then signed
- No formal meeting where document presented or discussed
- There was Committee comprised of representatives from different Departments in CH that decided how building would be used, etc.
- Discussed different CIPs and BOB-2s and how CH/TCH reported on them
- When asked what capital projects have to go to BOT for approval, she said if projects listed on CIP, that's sufficient, don't have to be individually presented and approved; if not on CIP, then must be presented/approved

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Suarez, Dania (10/4/18)**

- Started at UCF in 2005; served as Assistant to the Provost from May 2013 to present
- Tony Waldop was the first Provost she worked for; he left after 6-8 months; Diane Chase was the Interim Provost, then Dale Whitaker took over on 8/1/14
- There were 10 people in the Provost's Office who reported to Whitaker, including Tracy Clark
- She managed Whitaker's calendar, responded to emails for him sometimes; collected materials for meetings to prepare him, etc.
- Whitaker had standing meetings with his Chief of Staff, with his direct reports (Deans), and with Dr. Hitt (one-one-one, there were agendas for these)
- He also attended Budget Operations Meetings; these were run by Merck, Clark and Tant; other attendees were AVPs (Chief of Staff, Lisa Jones), Lynn Gonzalez (until she moved); President Hitt did not attend these; these meetings started when Tony Waldrop was Provost
- These meetings were held in the Provost office; people brought documents to the meetings; never an agenda that she recalls
- Whitaker took notes during meetings; kept notebooks (journals); he maintained them; not shared with her
- All documents for a given day were scanned and saved to a shared drive called "Provost Strategy"; included his calendar for the day, meeting agendas, documents he received at meetings, etc.
- Documents they received for meetings were also embedded into appointment on calendar
- She was not present for any discussions of TCH funding
- First learned of issue during Emergency BOT meeting
- Has had no discussion with Whitaker about this issue

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Tant, Christy (9/27/18)**

- Joined UCF in 4/10 as Associate Controller; reported to Tracy Clark; current title is Assistant VP, University Controller, Budget, Finance & Accounting

*E&G Funds*

- State gives money to university; comes in over course of year; university allocates to different units
- E&G budget allocated at end of year; don't spend until they receive it
- E&G funds comes into central pot (called central reserve?); E&G central reserve holds unallocated E&G funds
- She considers E&G funds to be non-recurring funds; get once a year
- Unspent E&G funds roll over to next year (carry forward); stay in central reserve (not in different account)
- Her office tracks carry forward E&G funds for budgeting
- Learned over time that E&G funds could not be used to construct new buildings; no formal training
- Only learned recently that this is prohibited by state law
- E&G funds can be used for things related to facilities (repairs, etc.); the line is not clear to her; wasn't aware of \$2.5MM cap on use of E&G funds for repairs/renovations until recently
- Report balance of carry forward E&G funds back to state in Fund Balance Composition Report; her office prepares; Tracy reviews and approves
- Submit this report in mid-August when submit budget for upcoming year; identify commitments against the E&G carry forward balance; one of categories is "Repair/Renovation/Infrastructure"; they put funds allocated to TC Hall construction in that category
- She and Tracy discussed what category to put those funds under; agreed there was no other place for them; acknowledges that new construction is not repair and renovation

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Weekly Budget Meetings/Discussion of TC Hall*

- In 2012-2013, there were weekly 7 am "touch point" meetings between the Provost (Tony Waldrop), Merck, Tracy, Vanessa Fortier (Asst. VP) and Lynn Gonzalez (worked in provost office, oversaw budget for academic affairs); Christy joined these meetings; over time the participants changed (Dale Whitaker became Provost in 2015)
- They would discuss requests from departments for funding, whether to approve, what source of funds to use, etc.; her job was to track the commitments they made; she used document called "E&G Commitments List"; took this to meetings; it lists TC Hall
- First heard about Colbourn Hall at these meetings; thinks Vanessa was still there (retired in 3/13); building in poor condition, need to renovate; will ask state for funding (PECO) but if don't receive, something will have to be done
- At some point Merck commented during one of these meetings that they **would use E&G funds (from central E&G reserve) to renovate Colbourn Hall and take an "audit comment"; this was openly discussed; thinks everyone understood that meant they were doing something inappropriate**
- **Merck also said if get PECO funds, will replace the E&G funds with them,** but never did (and they all knew the chance of that happening was slim)
- Not sure if Dale was at this meeting (he may not have been Provost yet)
- **There was no discussion of the \$2MM cap for using E&G funds for renovations**

*BOT F&F Meetings*

- She attended many of these
- **Merck made audit comment during one of them, in reference to using E&G funds for Colbourn Hall renovation; thinks it may have been the April 2014 meeting but is not sure**
- **After the meeting, she told someone I'm so glad he said that publicly**

*BOG Meeting*

- Claims she was at a meeting with the BOG staff 2-3 years ago
- **During a discussion of carry forward E&G funds, she blurted out, "We're building a building [with ours]." No one said that was improper**

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulation of knowledge**

*Relevant Documents*

- E&G Commitments List (list TC Hall)
- Allocation Document (shows distribution of budget across different divisions of the university); signed by President; one of the line items is TC Hall
- **Five Year Capital Plan** (different than CIP); document prepared by new UCF Facilities Budget Committee; **TC Hall is a line item on this plan and indicates source of funds is E&G**

*State of Mind*

- Didn't think it was okay to use E&G funds (understood general rule was operating funds not to be used for new construction), but also didn't think it was a big deal (not clear what rule violating)
- **Audit comments in connection with financial audits are bigger deal than comments in connection with operational audits**
- And fact that done so openly made her feel okay about it; never considered reporting it; and decision made above her

*Miscellaneous*

- Not done in secret; Merck was very open about it
- She had no discussions with Hitt about this; and does not clearly recall discussing this with Whitaker; though he may have been in the budget meetings where Merck made the audit comment remark
- Discussed decision with Tracy; Tracy's view was this was Merck's decision to make as CFO; Tracy understood it was wrong but also didn't think it was a big deal; worst case they would get an audit comment

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

**Tant, Christy (10/24/18)**

*Tab 1*

- These emails relate to preparation of the mid-year Fund Balance Composition Report a/k/a Carry Forward Report
- This report is submitted in mid-August to BOG; identifies how much carry forward UCF has and how it plans to spend it in coming FY (the one that just started in July); is a multi-year report, so actually report how plan to spend it over next 3-5 years
- Not sure why preparing report in February; maybe providing an update during legislative session (i.e., update to what they reported in August with actual numbers)
- Her office prepares this report; she prepared it herself for first time in 2013; Tracy Clark and Vanessa Fortier provided guidance; thinks Vanessa approved the report that was done in 2012-2013
- Christy had sent draft of the report to Lynn to review (Lynn worked for the Provost at the time); Lynn made changes and recirculated; Vanessa asked why planned expenditure for CH renovations were removed; Christy does not recall why (decision made by Lynn)
- Lynn said they still planned to pay for the CH renovation with E&G but that they removed those expenses from the report "to place more emphasis on the commitments directly related to faculty instructional and start-up costs"; can't explain Lynn's rationale
- Agrees it may have been misleading not to include the CH renovation expenses in the report if had decided internally to pay for using carry forward E&G; but recalls some discussion that hoping to get the \$8M for CH renovation from the state in form of PECO funds, in which case the E&G commitment would go away

*Understanding of Restrictions on Use of E&G Funds*

- Christy asked to clarify her statements in last interview on this subject
- She knew it was improper to use E&G for new construction
- She did NOT know it was improper to use E&G for renovation where the renovation cost exceeded \$2M; was not aware of this cap; thought E&G could be used for renovation expenses in any amount


**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulation of knowledge**

- As a result, she never thought there was anything wrong with spending E&G on the renovation of CH; **it was only when they started discussing using E&G for building TCH that she became concerned**

*Tab 2*

- She sent emails like this all the time
- Support for transfer request was Allocation document ("E&G Budget, Summary of Allocations and Reserve")
- Allocation document prepared annually and signed in August or September by President and Provost; reports how E&G budget will be spent in next FY; **gives her authority to spend; this document not shared with BOT** 
- Not sure who asked her to make this transfer; probably Tracy; though amount probably provided by someone in Facilities
- **BOT approves high level annual Operating Budget in May** (4 pages); her office prepares this; gets input from across campus; that budget identifies the total E&G budget which ties to the Allocation document; but **BOT doesn't see the Allocation document**; don't see how E&G will be spent across the departments
- So the Operating Budget is approved in May, which tells how much E&G you have, then Allocation document approved in August, which tells how that E&G will be spent
- The Operating Budget is submitted to the BOG in June; shows actual carry forward E&G expenditures from the prior fiscal year under **"Distributions & Transfers"** NOTE: carry forward expenditures on TCH were reported here

*FFC Meeting on 4/3/14*

- Prior to the FFC meeting she had heard about new TCH building; had seen materials
- Shortly after the FFC meeting where Lee Kernek gave presentation, she had conversation with Tracy
- She asked Tracy, "Are we really allowed to do this (use E&G funds) now that it's new construction and not renovation?"
- **Tracy answered, "It's been discussed with the Board and is Bill's decision to make."**
- She vividly recalls this conversation; took place in Christy's office



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Tab 3*

- Good example of discussion during Budget Chat meetings and documents reviewed
- Note that there were no formal agendas for Budget Chats
- File name of attached document was "E&G Commitments List" (and that's how they referred to it); actual name of report was "Planned E&G Budget Allocations"
- Section C = "recurring commitments" = salary; pay every year indefinitely from nonrecurring funds (like carry forward)
- Section D = "nonrecurring commitments" = not ongoing costs (rather, just one-time, even if multi-year commitment) \*This is where CH/TCH was listed
- This was a working document; constantly being updated; she would make changes to the spreadsheet based on what was said and decided during these meetings
- See that per document, as of 4/8/14 they had increased commitment to CH renovation from \$8M to \$18M (additional \$10M allocated)
- This decision was made during one of these Budget Chat meetings; Merck would have said estimated costs have increased
- [NOTE: FFC approved construction of new TCH on 4/3/14. Is that why commitment increased?]

*Tab 6*

- See request on 4/30/14 to transfer \$9.3M from E&G carry forward reserve to Facilities department account (where it would later be transferred to construction account); total transferred in FY 2013-2014 is now \$10M
- Allocation document only approved \$8M, so had to explain in email that the additional \$2M was approved in recent Budget Chat meeting with Merck and Provost (Diane Chase at the time)
- This moved cash to Facilities department so they could spend it
- These are budget transfers; they are what matter b/c once money deducted from budget, it's treated as spent; followed later by transfers of actual cash

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Tab 9*

- See reference to decision in 7/22/14 Budget Chat meeting to increase E&G funds committed to CH for 2014-2015 from \$13M to \$18M (as reflected in attached E&G Commitments List)
- This was decided at Budget Chat meeting; Merck would have said that renovation costs have increased, so need to increase amount of E&G funds committed to project
- Additional funds weren't transferred yet, though

*Merck's "Audit Comment" Remark during Budget Chat Meeting*

- It was around this time, when new building was being discussed and not just the renovation of CH, that Merck said during a Budget Chat meeting that using E&G funds for the building might would result in an "audit comment"
- She does not recall the exact date of when he said this

*Tab 10*

- See discussion among Budget Chat participants re: meeting to be held on 8/12/14
- They were working on finalizing the Allocation document for 2014-2015
- At this point, \$10M had already been transferred to the project
- The Allocation document for 2014-2015 committed another \$18M to CH to be transferred midyear (on top of the \$10M already transferred), for a total of \$28M

*Tab 11*

- See that Whittaker has started as new Provost
- He changed name of Budget Chat group to Budget Operations Group a/k/a BOG Jr.
- See that he requested list of commitments from last FY

*Tab 15*

- She sent E&G Commitments List to BOG Jr group; see that went to Whittaker
- Shows CH renovation under "Planned nonrecurring allocations" for 2014-2015 in amount of \$18M

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- She did not always circulate these reports in advance of Budget Chat/BOG Jr. meetings; but usually brought them with her
- She doesn't specifically recall this meeting, why circulated the document beforehand, or what was discussed

*Global UCF Building*

- Always planned to use Auxiliary funds to fund this
- Once decision made, didn't look back or reconsider reallocating those Auxiliary funds to TCH or other projects
- This was Merck's "pet project"; he was very into idea of bringing international students to UCF

*Tab 17*

- At some point in time, Tracy asked her to create a new document to track discussions about capital projects and how funding them
- She took this document to meetings where capital projects were being discussed, including Budget Chats like one referenced in email
- See on document that TCH and CH are both listed with \$38M as total cost
- See that \$28M was already funded from E&G, and that they planned to pay the additional \$10M from E&G as well
- She and Tracy had discussed this document in advance and made decision about funding options to propose
- This document was discussed at 1/13/15 Budget Chat per email

*Tab 18*

- Tracy forwarded her the email from Merck re: meeting where President approved moving forward with renovation of CH and construction of TCH at total cost of \$38M
- Tracy asked her to add \$10M for the projects to the E&G Commitments List
- She doesn't recall hearing any more details about the meeting referenced in Merck's email

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulation of knowledge**

*Tab 20*

- She that on 6/19/15 she requested transfer of \$18M from E&G carry forward reserve to Facilities department account (where it would later be transferred to construction account) for TCH/CH renovation
- This was in addition to the prior \$10M that had already been transferred
- Considered authorization for this to be the two Allocation documents (\$8M allocated in 13-14 (really \$10M) and \$18M allocated in 14-15)
- She also told budget office that another \$10M is committed and will be transferred
- This was based on email from Merck about meeting with Dr. Hitt and approval of total budget of \$38M that Tracy forwarded to her
- She assumed the additional \$10M would be included in the Allocation document for 2015-2016 (although it ended up being included in the 2016-2017 Allocation document)

*Tab 21*

- See that format of Capital Projects List had changed since Tab 17; it changed over time; John Pittman had taken over responsibility for the document at this point
- See that TCH and CH are listed as "Funded Projects" with funding source identified as E&G (form didn't distinguish between E&G and carry forward E&G)
- NOTE: As of this date, \$28M has already been transferred to the projects
- What recall about this meeting that Whittaker and Merck were having with Hitt? Tracy was concerned about all of the capital projects being discussed; what are priorities; are estimates good; where will funding come from; etc.

*Tab 22*

- Doesn't recall hearing anything about Tracy's follow-up meeting with Whittaker

*Tab 23*

- See her request on 7/6/16 to transfer the last \$10M to the project
- She attached Merck's email re: Whittaker's meeting with Hitt, and Hitt's approval of the project, as support

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- This request would have been triggered by someone telling her that Facilities needed the money, ready to spend
- She asked them to backdate the transfer to June 2016. Why? To bring down the carry forward balance that report to BOG (was concern that if balance too high, the Legislature may take the money)

*Discussions with Dr. Hitt*

- She never discussed CH/TCH with Dr. Hitt
- Only attended one meeting with Dr. Hitt and was not about CH/TCH

*Discussions with Dr. Whittaker*

- Recalls nothing specific he said regarding CH/TCH
- There was lots of discussion about CH/TCH and funding sources in Budget Chats, including after he began attending those meetings

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Walsh, Dave (9/25/18)**

- Trustee; joined BOT in February 2016
- He serves on Finance & Facilities Committee (FFC)
- The first meeting he attended, they approved the demolition of Colbourn Hall
- He thinks Lee Kernek must have known about the use of E&G funds for TCH; she knows the rules around the use of funds
- He attended meeting on 8/13/18 in advance of 8/15/18 FFC meeting (subbed for the Chair) that he thinks was revealing
- The meeting was in Merck's office; also there was John Pittman, Tracy Clark, maybe Christy Tant and someone else on the phone (Angie Carlos?)
- Heard some things in that meeting that he thinks may explain how this happened
- There seems to be a desire to grow the institution at any cost
- He cited increasing oversight of university reserves, and State talking about taking money back; effort to limit the visibility of reserves by spending them; saw that happen with Research Park
- Merck made comments at the meeting about providing a pre-paid lease to the Foundation; no reason to do other than that they have extra money in budget; he told Merck you can't do that, must be an arms length transaction
- They also discussed the State AG audit at this meeting; Merck said I'll take responsibility for it, it was me, I'm gonna be the fall guy, I plan to retire anyway
- Merck said, "We couldn't tell you guys about this," referring to the BOT
- Thinks Kernek is key person; she is the point person for capital projects, right under Merck, and was running projects like TCH
- Thinks Christy Tant had to know what funds were used
- Spoke to Whitaker recently after they found additional projects that were improperly funded; he's angry about having signed documents as Provost, approving E&G for capital expenditures; upset at Merck, said he was confused

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

**Whittaker, Dale (12/7/18)**

- President of UCF, former Provost and Executive Vice President
- Came to UCF from Purdue University, where he served as Vice Provost for Academic Affairs
  - Had no involvement with university budget at Purdue
  - Only involved in allocating the academic budget across different departments
  - They didn't have "colors of money" at Purdue

*Work as Provost*

- He served as Provost from 8/1/14 to 7/1/18 (although he was selected as President prior to 7/1/18, that's just when he officially started; he was announced as President in April)
- There was no formal orientation or transition process; had no meeting with Diane Chase, the Acting Provost; she had been a candidate for the Provost job so it was awkward
- His primary job as Provost was to advance the academic mission of the university; he was the Chief Academic Officer
- He reported to the President, John Hitt
- The following people initially reported to him:
  - Diane Chase, Vice Provost for Academic Affairs
  - Joel Hartman, Vice Provost for IT
  - Lynn Gonzalez, Budget Officer for Academic Affairs (handled all budgets for academic departments)
  - Ronnie Korosec later became his Chief of Staff
- In 2015, there was a reorganization and Tracy Clark became Associate Provost for Budget, Planning & Administration and reported to him
  - He wanted to bring more clarity to the Academic Affairs budget
  - Had a hard time monitoring Diane and Lynn (and Lynn's husband had cancer and she went on a leave of absence)
  - He and Bill Merck agreed to share Tracy

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- This coincided with the formation of the University Budget Committee, which he pushed for
- He and other VPs met with Hitt on weekly basis
- He also attended Budget Operations Group meetings on Tuesday mornings
  - These were usually held at his office (Provost's Office)
  - Regular attendees were him, Tracy, Christy Tant and Ronnie Kurosec
  - When he started as Provost, Merck suggested that they continue these meetings which had been held under his predecessor
  - Merck often missed the meetings, though
  - Purpose of meetings was to prioritize the use of funds for academic purposes (focus on Academic Affairs budget)
  - He was focused on how to use the funds; depended on Merck and his group to identify the proper source of funds
- He tried to attend all BOT and Committee meetings; served as liaison to Educational Program Committee of Board
- Had little involvement in capital projects; that was Bill's area; his main focus while Provost was to increase the size of the faculty; of course they needed more space to accommodate more faculty; he pushed for more and better space; but he depended on Merck and Lee Kernek's teams to figure out how to get the space and pay for it
- Had no involvement with the Capital Outlay Budget
- He reviewed the Capital Improvement Plan (CIP), which was prepared by Kernek and Merck; Hitt had to approve the CIP before it went to the BOT
- He thought there needed to be more academic input into the CIP; asked Hitt to form the Facilities Budget Committee in early 2017; he thought there were too many projects on the list and not clear who was deciding the priorities

*Understanding of E&G Funds*

- Over time, he came to understand that UCF received money from the state in form of tuition and E&G funds, and that E&G generally was for operations
- Was not aware of any limits or restrictions on the use of E&G funds, however



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- They had to decide how to allocate the E&G funds on recurring (every year, such as salaries) and non-recurring (one-time spend) basis
- So focus was on prioritizing the use of these funds
- Heard the terms "carry forward" as well as "central reserve" and "non-recurring" but frankly did not understand them

*Understanding of CH and TCH Projects When Started*

- Recalls discussion about need to renovate CH and also to build a new building (TCH)
- This had been decided before he joined UCF and planning was already underway
- Plan was to build TCH now, then renovate CH later
- Not aware of funding source for either project
- His focus was on faculty and staging of the move (from CH to TCH)
- It was his understanding that the structure of CH was okay, it just needed to be renovated
- He did not understand it to be a "sick building" or unsafe based on his discussions with Kernek and Merck

*FFC Meeting on 8/5/14*

- He doesn't recall this meeting; had just started at UCF
- Not sure he knew anything about CH/TCH yet

*Tab 1*

- Showed him Allocation document he signed
- He thinks Lynn Gonzalez briefed him on it (this was before the reorganization when Tracy began reporting to him)
- He recalls Lynn asking him to get Hitt to sign it; he asked her, "What is it?" Lynn said it was a budget prepared by Merck's group
- It was a short discussion; it was his first week on the job; he assumed it had been vetted with his predecessor, Diane Chase

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Doesn't recall noticing the CH renovation project on the document, or that funds allocated to it were "non-recurring"; there was no discussion of it that recalls
- He gave it to Hitt, and he signed it without any discussion
- They all trusted it had been prepared correctly

*Tab 2*

- This reflects his effort to "figure things out" after started
- Doesn't recall the Budget Operations Group meeting referenced (8/12/14) or any discussion of CH (identified as a planned mid-year allocation of \$18M)

*Tab 3*

- Discussed Budget Operations Group meetings generally
- Initially it was just him, Diane Chase, Lynn Gonzalez and Megan Diehl meeting alone (all Provost Office people)
- Bill suggested they include Finance people; apparently they had done that before
- He considered Bill to "own" this meeting, even though he often didn't attend
- Tracy Clark and Christy Tant ran the meetings; they brought the agenda, etc.
- He recalls discussion of E&G Commitment Lists (schedule/spreadsheet that Tracy and Christy brought to meetings)
- They used it to record decisions that were made about uses of funds
- Doesn't recall specific discussion of CH/TCH in these meetings or the projects being on the E&G Commitments List
- It was his understanding the project was already underway, just saving money towards it
- When we pointed out that CH was the single largest item on the E&G Commitments List that was apparently discussed at this particular meeting (on 12/2/14), he referred to "nonrecurring allocations" as "Bill's stuff," suggesting it was not his focus

*Tab 4*

- We asked him about the Capital Projects Funding Update document that Christy sent to Lynn, apparently for a meeting with him

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He recalls seeing documents like this and trying to understand them; but they weren't really relevant to him
- His focus was on paying faculty salaries, not capital projects, and he wasn't being asked to approve funding decisions for capital projects
- Fact that document indicates that E&G funds were being used for CH and TCH would not have mattered to him, if he even saw it, because didn't know that was impermissible
- He noted that he didn't spend time looking at the facilities/operations part of budgets

*Tabs 5-6*

- He recalls the meeting with Hitt on 1/20/15 referenced in Merck's email (which he said was a generally accurate description of the meeting)
- The meeting took place at 1:30 pm in Hitt's office; this was a standing meeting; also in attendance were Joel Hartman and Tom Cavanaugh
- Prior to the meeting, Bill and Lee had told him that combining the two projects (CH renovation and TCH construction), and doing them at the same time, would save money; before this, the plan had been to build TCH now and decide what to do with CH later; Lee stressed that the buildings would be connected and share an HVAC system, etc.
  - Thinks this conversation with Bill and Lee took place at a Budget Operations Group meeting; Bill would occasionally bring Lee to those meetings
- Bill asked him to pitch the idea to Hitt and get his support for it
- They gave him the information on the estimated cost (\$23M for TCH and \$15M for CH) for a total budget of \$38M, etc.
- He thought the idea made sense and always good to save money, but his concern was where would they put the faculty during construction; there was extra space in two other buildings they could use; Bill and Lee wanted his help "staging" the faculty move
- Bill said, "We can fund this internally"; he interpreted that to mean they would not use PECO funds or Academic Affairs budget or donations; rather, he assumed Bill meant they would use Auxiliary funds, interest earnings or cash reserves; he didn't know exactly where the money was coming from and it didn't really matter to him; finding the money was Bill's area

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He pitched the idea to Hitt, and Hitt approved moving forward with both projects simultaneously; he reported that back to Bill (leading to the email)
- He does not recall discussing with Hitt how the project would be funded and does not think he would have, since not his area

*Tab 7*

- This was an email to his Academic Affairs team, informing them of the decision by Hitt to move forward with the combined projects

*Tab 9*

- Apparently there was a meeting on 3/30/15 re: issues with CH
- Jose Fernandez, Dean of the College of Arts and Humanities (which included a number of departments housed in CH) had brought issues to his attention
- See here in emails that Fernandez had also been forwarding complaints to Lee Kernek
- Fernandez was not satisfied with the response from Facilities
- So he pushed hard on Lee, through Merck, to either fix the problems or prove there were no problems; that led to this meeting
- Doesn't recall this particular meeting (on 3/30/15)
- His perception was that some of the complaints were legitimate but others were by "known complainers"; he pushed Bill to look into them; Bill did tests (put dehumidifiers and fans in the building to address the air quality issues); said air quality "okay"
- Bill said CH was "not a sick building"
- Structural issues with the building were discovered later, after a study showed problem with the facade, and that bricks may fall off and hit someone
- However, there was never any concern that the building would collapse; it was just an appearance issue with the facade and the risk of falling bricks

*Tabs 10-11*

- See here Gina Seabrook sending CIP to him and his staff in advance of meeting with Lee Kernek to review it

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He reviewed the CIP as part of approval process; after him, Hitt would review and approve it, then it would be presented to the BOT
- Purpose of this meeting was for Lee to explain to him the priority order of the projects and get his input
- It was a mystery to him how the CIP was prepared; that is part of the reason he formed the Facilities Budget Committee, so that there was more oversight and input from across the university
- He doesn't recall any specific discussion of CH/TCH in this or other meetings with Kernek where they reviewed the CIP
- Bill Merck had explained to him that they were paying for CH/TCH with "internal funds" but that they were also asking the State for PECO funds, and that if they received them, then they would repay the internal funds using the PECO funds
- This made sense to him and is why he didn't question why the CH and TCH projects were listed in the PECO section of the CIP
- Showed him the BOB-2 form (this particular one didn't list TCH)
- He has no recollection of this form; does not believe it was ever discussed in one of these meetings with Kernek

*Tab 12*

- He does not recall receiving this email (but doesn't deny he did); didn't pay attention to it
- Doesn't know what prompted this \$18M transfer; couldn't explain timing; doesn't recall discussing it at a Budget Operations Group meeting
- Assuming he saw the reference to the "E&G carry forward reserve" as the source of funds, it would not have meant anything to him at the time or been a red flag; he didn't know that those funds could not be used for new construction like TCH

*Tab 13*

- Thinks Tracy Clark probably presented this Allocation document to him; he signed it and met with Hitt to get his signature
- He didn't really understand this document; his focus was on funding salary increases
- Doesn't recall any discussion of CH or TCH and they're not listed on the document

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- Not sure why the CH and TCH projects were not listed (when the email at Tab 12 indicated that an additional \$10M remained committed for 2015-2016)

*Tabs 14-16*

- He recalls the meeting on 3/23/16 with Hitt
- Thinks he asked for the meeting; didn't want Lee Kernek making decisions about the prioritization of capital projects
- The meeting was attended by him, Hitt, Merck, Mike Morsberger (UCF Foundation, involved in fundraising) and Bill Self (faculty member and Provost Fellow at the time; he was shadowing Whittaker and just sat in on the meeting and observed)
- The notes at Tab 16 are his
- Bill Self also took notes and emailed them to him following the meeting (Whittaker provided the email to us during his interview)
- The focus of the meeting was mainly on the unfunded projects, which ones should be given priority and how they should be funded; the funded projects on the bottom didn't get much attention because they were "taken care of"
- Merck "presented" the Capital Projects Funding Plan document and did most of the talking during the meeting
- He doesn't recall any specific discussion of CH or TCH (or how they were being funded) and his notes don't have any reference to CH or TCH
- Bill Self's notes indicate that Merck may have said that CH and TCH were not actually being funded with E&G, despite what was indicated on the Plan; he doesn't recall that
- Once again, even if he had noticed that the Funding Plan indicated that TCH and CH were being funded with E&G, it wouldn't have meant anything to him or been a red flag
- His general understanding from Merck was that they were using internal funds for these projects and that they had enough money to cover them; and he trusted Merck to make sure using permissible funds

*Tab 16*

- He does not know whether he actually met with Tracy following the meeting with Hitt and Merck (although his notes from the meeting reference Tracy in several places and included action items for her)

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**  
**FOR INTERNAL USE ONLY**  
**Not a communication, perpetuation, or formulization of knowledge**

*Tab 17*

- He sent this 6/23/16 email to the Deans, Department heads, etc. (the "Academic Leadership") to inform them of the decision to abandon the "two-building solution" -- that is, simultaneously constructing TCH and renovating CH -- and instead just build TCH and then demolish CH
- Prior to this, he had discussions with Merck and Kernek; they said just building TCH was a better option; it didn't make financial sense to renovate CH (too expensive); and this way they wouldn't have to worry about staging the faculty (they could just remain in CH while TCH was being built)
- Thinks Lee presented this new idea to him and others (or Bill presented it as Lee's idea); not sure if Hitt was involved
- Not sure of the date of that meeting, but was at least one week before this email was sent
- Doesn't recall any discussion about funding the project; understood they had the money already and that wouldn't be costing any more to go with this plan

*Tab 18*

- He was not copied on this 7/6/16 email, directing the transfer of the final \$10M for the CH/TCH project, and does not think he saw it or knew about the transfer at the time

*BOT Meeting on 7/28/16*

- Doesn't specifically recall the meeting or reviewing/approving the CIP
- His understanding of the CIP, though, was that they would continue asking for PECO funds for TCH and CH, and if they received those funds, they would replace the internal funds they were currently using for these projects with PECO funds
- We showed him the BOB-2 form presented at this meeting which lists TCH and indicates the funding source is E&G
- He said he had never looked at this document before and recalled no discussion about it

*Facilities Budget Committee Meeting on 2/22/17*

- We showed him the agenda and PowerPoint presentation from this meeting
- He does not recall any discussion of the TCH/CH project or how it was being funded during that presentation or meeting

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He is certain that Merck did not say they may get an audit comment as a result of the funds they were using for the project; thinks he would remember that

*Meeting Where Merck Referenced Potential Audit Comment*

- We told Whittaker that other witnesses had reported to us that he had attended a meeting in Hitt's office where Merck said that the funds they were using for TCH may lead to an audit comment (or something to that effect)
- Whittaker said he recalled that meeting; can picture it, though some details hazy
- He did not recall the date of the meeting or general timing
- He confirmed the meeting was held in Milliken Hall, either in Hitt's office or the Board Room
- During the meeting, Merck said that because of the internal funds they were using for TCH, "We might have a little audit comment"
- He minimized it, however, and said he didn't think it was a big issue; he said "I can handle that"
- Merck did not say they were not allowed to use the internal funds in questions for construction or that it was illegal or otherwise improper
- The term "audit comment" didn't mean much to him at the time; he was not familiar with State AG audits; he was only familiar with audits by accreditation agencies; an audit comment by them was just something to think about, as opposed to an audit finding, which might be a bigger deal
- He does not recall Hitt saying in response to Merck's remarks, "What else are we going to do"
- Whittaker noted that it was Hitt's decision, not his, to move forward with the TCH project despite what Merck said about the potential audit comment; he was just the Provost; this wasn't being presented to him to make a decision
- He added, however, that if Merck had clearly said it was improper to use the funds, he would have protested moving forward

*TCH Building Program document (2/27/17)*

- He generally recalls this document; thought it mainly concerned "programming," who would be in the new building and how would it be used



**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- It was circulated for signatures; there was no meeting to discuss it
- He did not review it closely before signing it; he asked Joel Hartman to give it a close read and let him know if okay for him to sign
- Doesn't recall reading or seeing Appendix D; not sure what "University Funding" means, but assumes it's the internal funds Merck was always talking about; Merck would frequently refer to "non-recurring internal sources"
- Also doesn't recall reading pp. 25-26 or seeing the reference to the BOB-2 form and the indication that the funding source for TCH was E&G
- Even if he had seen this at the time, it would not have meant anything to him or been a red flag because he didn't know that E&G funds couldn't be used for new construction

*Board Budget Retreat (3/3/17)*

- He attended the retreat and PowerPoint presentation given by Merck, Clark, Kernek and others
- Does not recall any specific discussion of TCH/CH during the meeting
- Does not recall Merck (or anyone else) saying that the funds they were using for TCH may result in an audit comment or that there was any concern about the funds; he would remember that
- Does not recall the discussion of "E&G carryforward" on Slide 15 but does not think this was discussed in the context of capital project spending
- Doesn't recall the discussion of "University Funds" on Slide 47 or how defined, but knows now it's not just E&G carry forward; it also includes Auxiliary funds, etc.
- Doesn't recall the discussion on Slide 56 about how "carry forward funding" was a way to address the so-called "facilities challenge"
- However, he noted that they were moving very quickly at the end of the presentation
- He stressed that no one who attended this presentation would have known that E&G carry forward funds were being used to pay for the construction of TCH or that there was anything potentially improper about that

*State AG Audit & Discussions with Merck*

- He did not attend the Exit Conference on 8/7

**PRIVILEGED - ATTORNEY WORK PRODUCT - DRAFT (10/11/18)**

**FOR INTERNAL USE ONLY**

**Not a communication, perpetuation, or formulization of knowledge**

- He had been away from campus since April when he was announced as the next President; only came back after Hitt left in late June
- Had no involvement in the audit; wasn't asked to provide documents or information
- The first information he received about the audit was an email from Robert Taft listing the preliminary findings from the Exit Conference; he thought the biggest issue was Hitt's pay, though that was really an issue for the Board; didn't focus on TCH
- Recalls Merck saying with regard to TCH that they would put the money back, and that should take care of the issue; didn't seem like big deal
- Had call on 8/28 with the BOG Chancellor; took the call in his office with others; that's when knew this was big deal
- Prior to the BOT meeting on 9/6, they held a prep meeting in Grant Heston's office
- During the meeting, Scott Cole asked Merck why he had told the BOT in 5/14 that "UCF non-recurring funds" would be used to pay for TCH; accused him of misleading them
- Merck responded, "If we had told the Board we were using E&G, they could not or would not have approved it, and we needed to do this"
- This was a "lightbulb moment" for Whittaker
- Merck went on to rationalize his actions, refer to CH as a "sick building," etc.
- Decided to let Merck retire rather than fire him; when we asked why, he said "humanity"; thinks it was a mistake in retrospect
- Throughout this period, Merck insisted that he made the decision to use E&G funds unilaterally; he never said (to Whittaker), "I told you and you approved it" or anything like that

*Discussions with Clark and Kernek*

- Met with Tracy Clark around one week after BOG meeting on 9/12
- She was very upset; told him none of us knew this was wrong
- He told her to just be honest
- He's had no one-on-one discussions with Lee Kernek