

Health commission president praises whistle-blowers who exposed hospital's patient gift fund scandal

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Health Commission president Jim Illig first claimed no LHH gift fund irregularities. Now he praises the whistle-blowers.



Drs. Rivero and Kerr have been upgraded from detractors, to admirable whistle-blowers.

Although San Francisco health commission president Jim Illig finally praised the whistle-blowers who exposed Laguna Honda Hospital's patient gift fund scandal, the chairperson of the city's audit review board has remained curiously silent.

The chairperson of the Citizen's General Obligation Bond Oversight Committee, Abraham Simmons, also serves as chair of the audit review board, both housed under City Controller Ben Rosenfield's office.

Simmons has been dead silent about the patient gift fund scandal; he's running as a candidate for the Board of Supervisors in District 2.

On September 2, San Francisco's director of public health, Mitch Katz, claimed inaccurate statements had been made and broadcast about LHH's patient gift fund, which he attributed to two "detractors" who he implied were expected to continue making "false statements" about errors in handling of LHH's patient gift fund.

Katz was referring to former LHH doctors Maria Rivero and Derek Kerr, who first filed their whistle-blower complaint about the patient gift fund on March 2, 2010.

As this Examiner reported on June 29, **Illig swore up and down** during the LHH ribbon cutting ceremony on June 26 that a **Peg Stevenson** — one of six deputy directors in the San Francisco Controller's Office — had assured him an audit of the gift fund had been performed and there were no problems.

The problem was, no audit had been performed in June. Illig now appears to have flip-flopped from his previous claims there was nothing remiss about the gift fund.

At the LHH Joint Conference Committee meeting on September 28, three health commissioners received a preliminary overview of the audit now underway. During the meeting Illig stated, "I really appreciate the folks who brought [the patient gift fund problems] forward." He also said, "I appreciate the whistle-blowing that brought this [matter] to our attention."

Illig appears to have been referring to Kerr and Rivero, suddenly contradicting Dr. Katz.

One mystery is why Kerr and Rivero were suddenly promoted between September 2 and September 28 from being "detractors" by Katz, to being "whistle-blowers" who performed a valuable duty by Illig, since Illig appears to be suggesting the whistle-blowers may have helped identify constructive solutions.

What caused the sudden switch? Could Illig know something about the audit that Katz doesn't?

For over seven months, various city officials have adamantly asserted there has been nothing remiss with LHH's patient gift fund, although to be fair, on May 21 Rosenfield recommended moving the troublesome staff education sub-accounts out of the gift fund.

Another mystery is why City Hall decided at the end of August that they'd better perform an audit of the patient gift fund, after all. The audit that began in early September is to conclude this week, six weeks later.

It appears the belated audit has finally identified multiple problems.

Even before the audit has concluded, Illig appears to have changed his tune. He now believes that a best outcome with "new [gift fund] procedures" may happen going forward, with "a complete audit of the past."

The old policies and procedures that were in place prior to December 2004 had been working fine until Laguna Honda's former Executive Director, John Kanaley, first ushered through changes to the policies that weakened oversight of the gift fund and created several staff education sub-accounts, raiding funds intended for patient-only benefit.

Former policies and rules in place, that had been effective prior to Kanaley, weren't followed. Nobody had objected to the raid of the gift fund until Kerr and Rivero stepped up to the plate.

As *Time* magazine noted on December 30, 2002 when it bestowed its *Persons of the Year* award on three whistle-blowers, ordinary people who try to restore confidence in public institutions set out "to do the right thing, not for personal gain but to correct a wrong." So, too, with doctors Rivero and Kerr.

The audit now underway may not yield a "complete audit of the past," since it is being restricted to a starting date of November 1, 2004, avoiding a complete audit of transactions in 2002 and 2003.

In 2003, public records show that Laguna Honda Volunteers, Inc. — whose mission is dedicated to enhancing the quality of life for LHH's residents — donated \$375,000 to the Laguna Honda Foundation to pay for Foundation salaries. As an affiliate philanthropic partner of LHH, Volunteers Inc. should disclose how funds it raised for patient benefit have been used.

Kerr and Rivero had not only filed a complaint with Rosenfield's whistle-blower program, they had also submitted complaints to the Civil Grand Jury (a volunteer citizen's group Simmons served on), to San Francisco's Citizens General Obligation Bond Oversight Committee (CGOBOC) to Simmons' attention as chairperson, and to the United States Attorney for the Northern District of California.

Rivero and Kerr have received no response from Simmons.

Simmons has been curiously quiet about the patient gift fund abuses, although he has surprisingly suggested that City Controller Ben Rosenfield would be Simmons' choice to replace Gavin Newsom as mayor, should Newsom win election on November 2.

Most observers didn't know until this past week that Simmons has been an Assistant United States Attorney for the Northern District of California since 1999, nor did they know Simmons has an affiliation with the U.S. Department of Justice.

To his credit, Simmons successfully ushered through creation of the Citizen's Audit Review Board during a meeting of CGOBOC last July, seven years after San Franciscans passed Prop C in 2003 creating the City Services Auditor function, as this Examiner noted on September 4. The Audit Review Board is supposed to review all City Services audits of city departments.

After months of stonewalling and denial over the need for an audit, and the sudden praise of Rivero and Kerr by Jim Illig, why's Simmons so quiet on the massive shift of funding in LHH's gift fund scandal?

Is it because Simmons may have a conflict of interest, himself, while running for the Board of Supervisors? Or is it because he has potentially advocated behind the scenes to require the audit?

Once the audit concludes, will Simmons hold a public hearing of the Audit Review Board to review the Controller's disposition of this whistle-blower complaint and the results of the gift fund audit, as provided by Section F1.111(4) of Proposition C?

Or is there a larger iceberg looming beneath the surface that is better hushed up by a tough-sounding, but potentially toothless limited audit, hoping to prevent greater exposure to LHH?

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