

An Open Letter to the American University Community

We write to set the record straight. The golden, now platinum, parachute given Ben Ladner is not a mere \$950,000 the Board of Trustees has disingenuously claimed. It is the entire \$3.75 Million reported in the newspapers. Each and every dollar is a gift. The University owes Ben Ladner nothing.

First, the Board has placed itself and the University in the midst of an outrageous and expensive inconsistency. The Board is on record as having determined at its Board meeting October 20th that Ben Ladner was an employee at will, with no contractual rights against the University and that Ben Ladner should be discharged for cause. Notwithstanding these findings, the Board gave him \$950,000 as severance. There can be no more contradictory positions. To be consistent and to fulfill its fiduciary obligation, the Board had only one option and that was to give Ladner zero, as the four of us have repeatedly urged.

Second, the Board only tells half the story regarding the insurance policy. Yes, Ben Ladner was entitled to the \$1 Million in the split dollar policy. But he was also obligated under the policy to repay the University the premiums it had paid on his behalf. Because the investments in the policy were quite unsuccessful, the policy's value was almost exactly the same as the premiums owed. Thus, the University owed Ben Ladner \$1 Million and he owed the University \$1 Million in premiums paid. Accordingly, he was owed nothing. Giving him the policy without asking for the premiums back is exactly the same as writing him a check for \$1 Million.

Third, the reference to \$1.75 Million in two trusts is flat-out misleading. Here's the true story. Ben Ladner had \$1.75 Million in deferred compensation which did not become his until 2010. Between now and 2010, he risked losing all of it, 100%, if he were to be fired for cause. Since the Board determined at its last meeting that he should be fired for cause, allowing him to resign is effectively a gift of the \$1.75 Million. Had principle and not expediency carried the day, the University would have kept each and every cent of the \$1.75 Million.

But that is not the whole story. Remember he misspent over \$125,000 for purely personal enjoyment. He also misspent almost \$400,000 which the audit committee in its generosity called imputed income, giving Ben the benefit of calling the invalid 1997 contract valid. Now that two law firms, University counsel and the Board itself have opined that the contract has no merit and was neither authorized nor ratified, we can add this amount to the list of misspent University money. Add to this the over \$1 Million that the investigation cost. Thus, the true dollar cost is over \$5 Million. And this is only part of the damage. Because of Ladner's behavior, an ethical cloud hangs over the University. The School has become the target of jokes and criticism. And most importantly, several significant donors have withdrawn pledges and we assume more will follow. After all, who would want their donation to fund a reward for bad behavior?

We dismiss the Board's alleged fear of litigation as a mere excuse for the Board's largesse. It is totally without merit. First, principle should rule. There should be no deviation from the only guideline to be

followed - wrongdoing must not be compensated. Second, we repeat that the Board has three legal opinions that the 1997 contract has no validity. The Board has adopted this position. The insurance policy is clear. Ben Ladner owes the University the premiums. There is no ambiguity in the deferred compensation arrangement. Ben takes nothing if he's fired for cause. Third, the cost of litigation to the University if pursued by Ladner would be only a small fraction of the severance package just awarded to him. The University has in-house counsel and we are certain that the law school faculty would provide any additional assistance needed.

We are dismayed not only by the amount of the platinum parachute, but also by the way it was determined. The students, the deans, the faculty, and donors should have been heard before a decision was made. The trustees only worsened the matter by holding their meetings in secret and demanding oaths of confidentiality. We now know why. They needed to hide behind a cloak of secrecy to avoid listening to dissent, to conceal as long as possible their goal to put Ben Ladner's demands first and the University's needs a distant second. If this is the Board's new approach to governance and transparency, we are certainly glad that we are no longer part of it.

The Board has significantly worsened an already sad chapter in the University's history. It has lost sight of its true constituency - the students, the faculty and the alumni. The Board has given \$3.75 Million to an undeserving individual. Had it earmarked this money for the deserving, Ladner's platinum parachute could have funded the salary of over three dozen faculty members for a year; provided for almost 200 full tuition scholarships for a year; and provided in perpetuity 10 full scholarships. This is where American University's resources should go and that is why we voted for no money for Ben Ladner and why ultimately we sadly resigned from the Board.

Sincerely,

Leslie E. Bains, former Chair of the Board of Trustees
George J. Collins, former Chair of the Board of Trustees
Leonard R. Jaskol, former Chair of the Audit Committee
Paul Martin Wolff, former Trustee