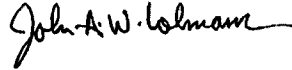


MEMORANDUM

TO: Janelle Crowley, Dir. of Human Resources

FR: John Lohmann, Special Assistant to VC/CBO



RE: Dr. Eugene Alcalay

DA: August 25, 2015

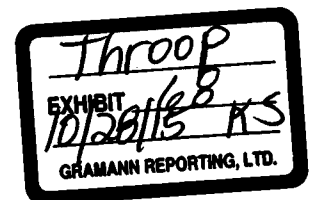
Introduction and Background

Dr. Eugene Alcalay joined the University of Wisconsin – Platteville in 2005. A native Romanian, Dr. Alcalay, has masters and doctorate degrees from the Julliard School. He is a tenured faculty member of the music section of the Performing and Visual Arts Department (“PVA”). Dr. Alcalay earned 15 consecutive semesters of positive personnel reviews and student evaluations. Dr. Alcalay built the piano studio from no majors into 2005 to six majors and twenty-three students by 2011. In the spring of 2010 three fourths of the music faculty signed a tenure letter for Dr. Alcalay. Dr. Demarre did not sign the document, allegedly stating that Dr. Alcalay was “too big for us”. The tenured faculty voted against tenure for Dr. Alcalay, a vote that he eventually challenged, asking for reasons. The DRB file did not contain documentation supporting a “no” vote. The decision was reversed on reconsideration in January 2011. Dr. Alcalay was up for appointment to full professor in January 2013. Dr. David Cooper was chair of the department at that time. Dr. Alcalay was initially turned down for promotion. Cooper allegedly stated that the DRB didn’t even consider the file and it was dismissed on a technicality (“not enough years”). Dr. Alcalay challenged this successfully once he did meet the conditions. There has been lingering acrimony in the department over these events.

On April 2, 2014, Dr. Alcalay was placed on paid administrative leave, pending an investigation into a student complaint. Dr. Cooper related to University leadership including Dean Throop and Interim Director of Human Resources, John Lohmann, that a student had alleged that Dr. Alcalay had a group of students at his home as part of his class for recitals and that during this event, Dr. Alcalay had pulled the female students shirt off, exposing her breast and had another student take photographs of the same. In addition Cooper related that there were allegations of Dr. Alcalay giving the student a shot (hypodermic needle). The administration, upon hearing this allegation from the PVA department’s director acted rapidly to protect the safety and interests of the students, deciding to err on the side of caution. At the same time, the administration was clear that Dr. Alcalay was to be paid while on leave and this matter was not to be discussed pending investigation.

Dr. Alcalay was directed to attend a meeting at 3 PM on April 2, 2014 with Dean Throop and John Lohmann. It was intended that this meeting would allow Dr. Alcalay to relay his view on the allegations. He declined to attend the meeting. Dr. Alcalay has since explained that he did not attend based on advice from his union representative.

Dean of Students Nevins met with three students involved with the allegations against Dr. Alcalay and reported her findings to John Lohmann on April 8, 2014.



John Lohmann, Dean Throop and Dean Nevins met with the complaining student on April 3, 2014. While the complaining student raised some issues of concern regarding Dr. Alcalay, they were in no way to the extent, nature or degree of the behavior communicated to the administration by Dr. Cooper. Interestingly, Dr. Demaree attended with the student at the student's request. The student's focus was primarily on her perception that Dr. Alcalay generally was bullying and not operating a "learning environment".

After the initial investigation and consultation with UW System General Counsel's office the Chancellor directed that Dr. Alcalay was permitted to return to campus and resume his duties on April 9, 2014.

On April 10, 2014, Dr. Throop reported to John Lohmann, that Dr. Cooper, on his own, without direction, permission, or consultation with the Dean, the Dean of Students, or the Director of Human Resources, conducted a public meeting with students in the music department.

On April 29, 2014, Dr. Alcalay filed a complaint with the Chancellor against Dr. David Cooper, chair of the PVA Department, alleging a number of acts of misconduct, including those in relation to the handling of the student complaint earlier in April of 2014.

On May 2, 2014 two piano students filed a complaint against Dr. Cooper, alleging a number of acts of misconduct in relation to Dr. Alcalay.

The Dean of the College of LAE, Dr. Throop, issued a letter of direction to Dr. Alcalay on May 8, 2014.

John Lohmann met with Dean Throop and Dean Nevins on May 9, 2014 to review the students' complaints against Dr. Cooper. The Dean of Students had previously met with the complaining students. The gravamen of the complaint was that Dr. Cooper, in a public meeting, acted unprofessionally and provided misinformation, which they thought was "not right." Mr. Lohmann confirmed that students could bring a signed complaint to the Chancellor and trigger the shared governance/disciplinary procedures under the Faculty Bylaws. Thus it fell into the Chancellor's discretion to respond as he saw fit pursuant to Chapter/Section 7 of the Faculty Bylaws. Dean Throop indicated she still intended to meet with Dr. Cooper to express her displeasure with his actions.

Sometime in the months of May or June of 2014, Dr. Cooper dismissed Dr. Alcalay from his role as the Chair of the Piano Proficiency Committee, replacing Alcalay with himself. Dr. Alcalay was omitted from all other departmental committees as well, despite his request to work on other committees (e.g. Music Scholarship Committee). Dr. Alcalay has yet to serve on a search and screen committee despite his requests to do so, including in September of 2010 and October of 2012.

On June 13, 2014, the Chancellor directed John Lohmann, the then Interim Director of Human Resources, to investigate the matter of the Alcalay complaint against Cooper.

On June 16, 2014, the University of Wisconsin – Platteville campus was hit by an EF2 tornado, causing tens of millions of dollars of damages. Without overstating the obvious, operations were disrupted.

John Lohmann reported his initial findings to the Chancellor orally in a meeting in the summer of 2014. It was Mr. Lohmann's understanding that the Chancellor preferred to exercise his prerogative to

handle the matter administratively and have a discussion with Dr. Cooper to express his displeasure with him regarding this incident.

On August 12, Dr. Alcalay informed Mr. Fairchild that he would be out of state at a medical appointment and could not attend the upcoming faculty meeting. Dr. Fairchild responded to Dr. Alcalay via email, stating in part, that "[i]t will just be an informational meeting, and I will fill you in on everything."

On August 18, 2014, Dr. Demarre was appointed Chair of the PPC.

On August 22, 2014, Dean Throop withdrew her letter of direction.

On August 29, 2014, a PVA faculty meeting was held at which time the new piano review procedures were put into place.

On September 10, 2014, Dean Throop signed a Memorandum of Understanding ("MOU") with Dr. Alcalay. Included in the MOU at numbered paragraph seven (7) was the statement, "Dean Throop will prepare a memo to Provost Den Herder indicating that, following our meeting on Friday, August 22, 2014, *all issues* brought to Dr. Alcalay's attention have been resolved to her satisfaction." (*Emphasis added*). Also on September 10, Dean Throop sent a memorandum to PVA staff and students, noting, "...we have worked with Dr. Alcalay to resolve the concerns that were brought to Dr. Alcalay's attention last semester."

On September 12, 2014, Dr. Alcalay notified John Lohmann of alleged retaliation against him by Dr. Cooper.

John Lohmann met with Dr. Alcalay on September 19, 2014, to review Dr. Alcalay's complaint of retaliation against Dr. Cooper, alleging that Dr. Cooper had retaliated against Dr. Alcalay for filing the complaint against Dr. Cooper in April of 2014. John Lohmann communicated to the Chancellor that he would include the new retaliation complaint with Dr. Alcalay's original complaint against Dr. Cooper.


Lohmann did speak to Dr. Cooper briefly in October of 2014 over the telephone.

In the conversation with Dr. Cooper, Mr. Lohmann reviewed the students' complaint with him paragraph by paragraph. Dr. Cooper responded in a forthright and cooperative manner. Dr. Cooper indicated that he had made the statements in paragraph 1, including that Dr. Alcalay "has to be police escorted onto campus," but that he was led to believe this information by Dean Throop. Dr. Cooper agreed that he made the statements in paragraph 2, including, "several students felt he was being dishonest," and, "it is a personal nature and I cannot tell you because it would make you uncomfortable. But all I have to say is that I have an 18 year old daughter and if something like this happened between her and a professor I would be a very angry father." Dr. Cooper did not have any recollection of the contents of paragraph 3, and indicated that he would not have said that ("I do not like the man..."). In regard to paragraph 4, Dr. Cooper indicated that he was not actively encouraging students to not sign up with Dr. Alcalay, he was only providing two options and answering a hypothetical. In regard to

paragraph 5, Dr. Cooper indicated that he may have said something like the statement in the complaint to the effect that the Chancellor did not want Dr. Alcalay back. Dr. Cooper could not attribute the statements later in the paragraph and denied that he made them. Dr. Cooper agreed that he made the statement contained in paragraph 6 indicating that the students are "very narrow minded if we have only taken lessons with Eugene and no one else." Regarding paragraph seven (7) Dr. Cooper indicated that everybody was welcome to take with Elaina and only the students themselves wrote down the two columns – no faculty or staff member added them. Dr. Cooper denied that he led the students to think that Dr. Alcalay was a sexual predator. He also indicated that he was never notified about Dr. Alcalay's return and that he did not know before Dr. Alcalay did.

Between October 7 and 9 of 2014, Mr. Lohmann interviewed Dr. Fairchild, Dr. Schuler and Dr. Demaree in relation to these matters.

[REDACTED]

In late 2014, early 2015, the budgetary situation began to become clearer and much of the focus of the University Leadership, including Mr. Lohmann, was on assessing and preparing for the upcoming budgetary cuts. This included the crafting, revision, outreach education and implementation of the Voluntary Separation Incentive Plan (VSIP).

On February 24, 2015, Dr. Cooper dissolved the Piano Proficiency Committee.

In May of 2015, according to Dr. Alcalay, the Piano Proficiency Exams were scheduled at the same time Dr. Alcalay had piano juries. The exams were held by Dr. Cooper and two academic staff members (none of whom hold a degree in piano). Dr. Alcalay states that this situation is "unprecedented in my 10 years here and unparalleled in the UW System... not aware of any NASM accredited school that attempts to hold these exams without the piano faculty." Dr. Alcalay feels that this is an attempt to undermine his position as the senior piano faculty and undermine his reputation with the students.

Dr. Alcalay has expressed frustration that his fall 2015 schedule requires him to reduce his studio to just six students (two credits) to make room for three "totally unnecessary credits of music appreciation" in a semester wherein the department needs to offer Piano Pedagogy (a two credit course required for piano majors offered every third semester). Dr. Alcalay asserts that the department temporarily reinstated pedagogy, but cancelled the course in July despite three students being enrolled.

During the summer of 2015 both the Chancellor and Dr. Alcalay spent time out of the country. John Lohmann transitioned out of the position as Interim Director of Human Resources as of June 30, 2015 to a part-time appointment as Special Assistant to the Vice Chancellor Rob Cramer. Per agreement with Mr. Cramer, Vice Chancellor for Administrative Services, John Lohmann took the Alcalay vs. Cooper file with him with the understanding that the report of his findings would be made to the permanent Director of Human Resources, Dr. Crowley.

Discussion

Initial Student Complaint against Dr. Alcalay

The initial student complaint was not accurately communicated by Dr. Cooper to the administration. The administration acted out of an abundance of caution to protect students based on the communications of Dr. Cooper. Upon further investigation, it became clear that Dr. Cooper had at the least exaggerated, and at worst, confabulated, the facts. Dr. Alcalay was permitted to return to campus and resume his duties.

There were problems found with Dr. Alcalay's conduct, in relation to his off-campus recitals. *None of these problems were of a sexual nature nor did they involve any inappropriate relationship with students.* The facts revealed that Dr. Alcalay had a practice of having students come to his home as a group, with his wife, Dr. Elisabeth Alcalay present and participating. The students would perform a recital as part of their class requirement. While performing, immature pianists will often become nervous and "tense up" which fatigues the pianist and will affect their performance. To combat this issue, Dr. Alcalay would use a "gag pen" shaped as a hypodermic needle to give the students "a shot of courage" as a reminder to not tense up and/or to not overuse the "soft pedal". He would put the pen to the students' arms in a joking gesture. Sometimes he would pull their sleeve up, or in the case of the complaining student, he pulled the collar down on her blouse to give her the "shot of courage". Dr. Alcalay also keeps photos of his students throughout the years. He often will have their photo taken by another student during the capstone experience of the recital. His collection of photos in his office did not demonstrate any particular leaning towards male or female students and the photos did not include any of students in any state of undress or in any compromising way, and Dr. Alcalay asserts that he always asked permission prior to taking photos of the students. Dr. Alcalay demonstrates genuine concern in his students and their progress. His conduct may have violated some current standards of consent and conduct, but *he in no way ever intended to hurt or offend his students.*

Dean Throop issued a letter of direction to Dr. Alcalay. A letter of direction ("LOD") is less severe than a letter of reprimand – it is an exposition of expectations and explicit recitation of consequences for failure to comply with these expectations. The LOD included the following:

1. He was not to have off-campus attendance for performance required, especially not at his personal residence.
2. He may not touch students, must ask permission before touching them (as it is required in some piano instruction).
3. No "shots" and no photographing of students.
4. Photos only with written permission.
5. He must adhere to the syllabus presented to students and his grading must be fair and impartial.
6. He must attend an appropriate course of professional development and training, e.g., effective motivational and instructional techniques, understanding boundaries, and diversity/sensitivity.
7. His conduct must be appropriate and professional as judged by department colleagues, Dean and Provost.

Dr. Alcalay refused to "accept" the LOD.¹ The LOD was ultimately withdrawn and a MOU was entered into between Alcalay and the Dean which included language that, as of September 2014, all issues had been resolved to the Dean's satisfaction.

Dr. Alcalay's Initial Complaint regarding Dr. Cooper

Dr. Alcalay filed a complaint with the Chancellor, via email, pursuant to UWS-6.01 against Dr. Cooper. The complaint is based upon Dr. Cooper's meeting on April 9, 2014 with the applied piano students. Dr. Alcalay sought a public retraction from Dr. Cooper and that "the University provide me with reparation for the damages he has done me."

Dr. Alcalay's Retaliation Complaint regarding Dr. Cooper

Dr. Alcalay alleges that Dr. Cooper has retaliated against him in response to the complaint filed by Dr. Alcalay against Dr. Cooper in April of 2014. Dr. Alcalay alleges that Dr. Cooper caused Dr. Alcalay's responsibilities to be reduced and his rights as a faculty member violated. He further alleges that this was and is contrary to the best interests of the piano program and the piano students and that this has had a negative effect on Dr. Alcalay's teaching duties and working environment.

In support of these allegations, Dr. Alcalay points out that his initial contract as a faculty member, in 2005, noted that his principal assignment was to teach applied and class piano. He asserts that colleagues have acknowledged him as the head of the piano area and respected his leadership in this sphere of his expertise.

Previously in the piano area there were two sections linked by Dr. Alcalay's oversight, Applied/Studio Piano and Class Piano Sequence. The Applied/Studio Piano section is for majors and non-majors with advanced skills. The Class Piano Sequence is for beginning students; primarily vocal and other instrument majors. Other music faculty would teach first semester and Dr. Alcalay taught subsequent semesters and served as coordinator of the piano techniques curriculum.

In spring 2014 the department created a piano proficiency committee ("PPC") to join Dr. Alcalay in hearing proficiency exams. Head of piano, Dr. Alcalay served as chair. Dr. Alcalay's position regarding preparing for these exams is that expert knowledge of piano is required to answer student questions and to provide appropriate assignments necessary for the students' preparation.

As mentioned previously, sometime in the months of May or June of 2014, Dr. Cooper dismissed Dr. Alcalay from his role as the Chair of the Piano Proficiency Committee. Dr. Alcalay was omitted from all other departmental committees as well, despite his request to work on other committees (e.g. Music Scholarship Committee). Dr. Cooper put himself in as the Chair of the PPC, despite not having expertise in piano and despite not attending the students' proficiency exams.

Prior to Dr. Cooper's medical leave, he assigned all sections of first semester lessons to Dr. Burns, when there was no *bone fide* reason for the incoming students not to study with Dr. Alcalay.

Dr. Demaree's appointment as Chair of the PPC on August 18, 2014 is problematic as well. Dr. Demaree is a choral conductor without expertise in Piano, and he had not served on the PPC in the

¹ While an LOD is not a consent-based document -- it is a direction from a supervisor to a subordinate -- Dr. Alcalay communicated consistently his disagreement with the premises of the document.

spring. Additionally, this put Dr. Demarre as chair over a committee on which his spouse sat (Dr. Demaree's spouse also teaches piano class). The committee included an academic staff member, who, per department constitution should not be permitted to sit on any voting committee.

Dr. Alcalay's position is that this was essentially a demotion (a stripping of responsibility and prestige) by Dr. Cooper in conjunction with Dr. Demaree, in retaliation for Dr. Alcalay's complaint(s) against Dr. Cooper. Dr. Alcalay also contends that the committee created new prerequisites for applied piano lessons on an *ad hoc* basis, not through normal university channels and procedures, thus acting beyond its mandate.

The PVC faculty committee meeting on August 29, 2014 is the event during which the new piano review procedures were put into place. The agenda for this meeting did not have the piano review procedures as a topic for discussion. Additionally Dr. Alcalay had been told by Dr. Fairchild, interim Department Chair, that the meeting was informational only. There was no opportunity to review the proposed guidelines in advance. The new procedures allowed Dr. Demaree to essentially act as a gate keeper over admission of students into Dr. Alcalay's studio. Other instrumental instructors are allowed to make their own determinations as to the students they admit into studio, which complies with what was stated in the Music Student Handbook at the time.

Dr. Alcalay has effectively been head of the piano area from 2005 to 2014. For some reason, in 2014, the departmental leadership felt it necessary to remove Eugene from acting in this capacity.

Student Complaint in re: Dr. Cooper

The student complaint contained recitals as to declarations made in the public meeting by Dr. Cooper in relation to Dr. Alcalay, including:

1. Dr. Alcalay was on leave for a number of reasons
2. Dr. Alcalay cannot be on campus without a police escort
3. Dr. Alcalay is dishonest
4. Dr. Alcalay picks favorites
5. Other is a personal matter I cannot tell you about. Would make you feel uncomfortable. I would be an angry father
6. (Cooper) does not like the man
7. Students should appeal his coming back
8. Faculty has known for a long time he should not be here
9. Encouraged students not to sign up, if no one signs up he will maybe not be able to come back or he will be forced to teach only music appreciation.
10. Chancellor doesn't want him back.
11. He is a very selfish person
12. Spread the word.

The complaining students also alleged that they were added to the list of students who wanted to change piano teachers, despite their desire to continue to study with Dr. Alcalay. They further alleged that the speech by Cooper scared some students and they were led to believe that Dr. Alcalay was a sexual predator.

Dean of Students Nevins indicated to John Lohmann that the two complaining students had not been friends prior to this incident, were not conspiratorial and both appeared credible to her.

Damage to Dr. Alcalay

Dr. Alcalay indicates that this course of events has had a detrimental effect on him. In particular he has communicated that:

1. This has caused damage to his reputation and welfare
2. He has been treated as a suspect and been subject to slander
3. The continued employment of E. Burns serves as confirmation of rumors that he is unfit to teach female students
4. He has been treated as untrustworthy,
5. He alone has been deprived of his right to admit students to lessons as the only instrumental instructor not permitted to do so, and
6. The apparent absence of consequences for Dr. Cooper tends to validate Cooper's statements.

Dean Throop does not believe that Dr. Alcalay has been damaged. She points out that Dr. Alcalay is a full professor who earned a salary increase this academic year.² She does not view the decision by the department to have additional faculty eyes on student placement into piano lessons as damaging him professionally. She reports that he has remained more disengaged in departmental activities than all other faculty members and academic staff.

Conclusion

The constellation of events in this matter is troubling. Individual events, in isolation, do not necessarily indicate any retaliation or mal-intent against Dr. Alcalay. But taken as a whole, it is difficult to not see this.

The original student complaint against Dr. Alcalay was communicated by Dr. Cooper to Mr. Lohmann. It was not accurately reported. The confabulation of Dr. Cooper regarding the alleged student conduct is directly related to the scope of actions taken by the University at that time. Had the allegations been reported accurately it is quite possible Dr. Alcalay would not have been put on paid administrative leave. The salacious and exaggerated report made by Dr. Cooper about Dr. Alcalay's interactions with the complaining student certainly colored the early actions taken by the University. It was both imprudent and wrong for Dr. Cooper to exaggerate or even imply these "facts" to students and faculty. He did this without seeking the permission of the Dean and without verifying the "facts" as he understood them. When the Dean of Students and Mr. Lohmann interviewed the student complaining (who was accompanied by Dr. Demaree) it was clear that her allegations were far different in scope and severity than that alleged by Dr. Cooper. If one considers one of the students' allegations against Dr. Cooper, that he stated to them in effect, that if no one signs up with Dr. Alcalay, he will be relegated to teaching music appreciation, one must consider the possibility that Dr. Alcalay has been subject to a campaign to denigrate his integrity and reduce his reputation with the students. Reducing his piano students, either by ruining his reputation or by taking control of the gate keeping function over which

² Dr. Alcalay contends that he is paid the minimum for his job class, thus implying that any increase was mandatory and not discretionary.

students may enter his studio, would indeed reduce him to teaching music appreciation. Perhaps this would cause Dr. Alcalay to leave the University on his own, based on a fundamental and humiliating change in job responsibilities.

The proximity in time of the changes in the leadership of the PPC and the initial evaluation process for students wishing to take piano is damning on its face. Had there been a pressing academic need to make these changes, it may have been defensible. However, in this case there is not such a pressing academic need for the changes. Based on the evidence it appears that these changes were made because: 1) the department leadership believed David Cooper's initial description of events and desired to keep female students away from Dr. Alcalay, 2) the department leadership loathes Dr. Alcalay and wishes to isolate him as much as possible and remove him from the decision making process in the department, or 3) some combination of the first two options. It is not such a stretch of the imagination to consider this when other faculty members openly admit to not caring for Eugene and in light of the resistance to Dr. Alcalay's candidacy for tenure. It is certainly not required for Faculty to like each other – in fact they are permitted to despise one another. But they must behave in a professional manner and must not use the tools of leadership to act on those emotions against another faculty member. Perhaps his peers consider Eugene pompous. He certainly would not be the only faculty member in the academy to be accused of the same. But he is clearly the most skilled, trained and experienced pianist in our PVA department. To remove him from the initial review process of piano students confounds the senses. Dr. Alcalay is the very most qualified individual in that department to provide input on incoming piano students and on piano pedagogy. To remove Dr. Alcalay's access from students and relegate him to a fifty percent load of music appreciation sections does not help our students, nor does it further the goals and mission of the university.

Each of the faculty members discussed in this memorandum is known to be a committed educator. It is likely that emotions got the better of some faculty members and they acted on their personal disdain for Dr. Alcalay. Whether done intentionally, opportunistically, or instinctively, it appears that Dr. Alcalay has been the subject of retaliation. Retaliation against someone making a good faith complaint cannot be tolerated. It is recommended that actions be taken to restore Dr. Alcalay's reputation and his oversight of the piano program. The University may also wish to consider the insertion of temporary leadership from another department into the PVA to reestablish professional behavior and order.