

CONFIDENTIAL

Areas of Consideration for Ben Ladner's Compensation

File

February 19, 2004

1. Annual Salary and Merit Increases

- A few years ago the Compensation Committee adopted a compensation approach that keeps annual salary increases for AU executives low, and gives a larger percentage for performance increases. The rationale was to keep AU executive salary increases in line with those of faculty and staff, while awarding the bulk of increases solely on merit. The last two years, for example, executive salary increases were set at 4%, in line with AU staff and faculty— except for my own, which last year was set at only 3% – while merit awards ranged from 10% - 42%.
- This approach creates several problems. First, in all published compensation reports, the total amount of compensation is reported, making the distinction between salary and bonuses irrelevant, at least from the standpoint of public perception. No one notices the fact that part of the compensation is designated as salary and part as merit. In the public mind, only the total amount matters.
- Second, for me it is a serious penalty to continue to reduce the percentage increases for my annual salary, especially when they are lower for me than for my Cabinet executives. Because my deferred compensation is calculated as a pre-set percentage of my annual base salary, a lower base salary automatically lowers my deferred compensation. Moreover, my contract stipulates that upon retirement I will receive a year's salary plus a year's salary at my then base salary. Therefore, with a lower base salary each year, I will have a significantly lower income when I retire. Furthermore, I am now falling behind the salary levels of president's at peer competing schools.
- It is unclear why I was given a smaller percentage salary increase than other AU executives, or why my salary level is kept low, which creates a negative impact on my deferred compensation and pay at retirement. I would prefer to be rewarded in larger salary percentages than in the past in order to be in a better financial position at retirement.
- At the November 2003 Compensation Committee meeting, the Committee approved my recommendations for merit increases for Cabinet executives, with various percentage increases above their last year's compensation. In my case, however, the Committee decided not to give me a percentage increase and to hold this year's merit increase to the same as last year's. In the last eighteen months, I have received a lower percentage salary increase than my Cabinet and no percentage increase in my merit award, compared to significant increases in the Cabinet merit awards. Since these decisions are tied to the Committee's evaluation of my performance, it would be helpful for me to have a clearer understanding of how to interpret the import of these decisions.

2. Retention Incentive

- Five years ago, the Board approved a retention incentive of \$500,000 for me to stay at AU as president for five years. I received a \$100,000 cash payment in the first year of the five years, and the remaining \$400,000 would have vested on June 30, 2004.

However, I elected to place the \$400,000 at risk of forfeiture until 2010, which I can withdraw earlier if I decide to retire before then.

- In anticipation of the completion of the five-year retention incentive on June 30, 2004, I believe it is appropriate for the Committee to consider whether it wishes to provide another retention incentive, at what level, and for how long. From my standpoint, based upon previous performance reviews, university improvements, and length of service, I assume that my value to the institution has increased significantly compared to five years ago.
- If the Committee would like to establish another retention incentive, I propose that the amount increase to \$225,000 annually, beginning July 1, 2004 and vesting June 30, 2009. It would be deferred and placed at risk of forfeiture. The pay-out could be either a lump-sum payment in 2009, after a total of 15 years' service, or annual payments beginning after my sabbatical, to be determined at my discretion. With such an incentive, I would commit to staying at AU for another five years.

### 3. Failure of Split Dollar Insurance to Provide Adequate Retirement Security

- In 1997, the university took out a split dollar insurance policy that was projected to be worth \$9 million in ten years, which would secure my retirement at my 1997 level of living. Unfortunately, the policy is currently worth only \$650,000 and is not likely to improve enough over the next three years to approach original projections.
- With the failure of this financial vehicle to provide for my retirement future, my Ernst & Young financial advisor has calculated that the gap between where I am presently and where I should be at retirement to maintain my current living level is approximately \$3.7 million after taxes, or \$5 million pre-tax. I would like the Committee to consider establishing a viable financial approach to closing this gap as much as is reasonably possible prior to my retirement. Possible options might be:
  - a) a five-year retention incentive bonus, described above, totaling \$1,125,000;
  - b) a much larger percentage increase in my annual base salary;
  - c) an increase in the percentage of my annual deferred compensation from 25% to 35% of my annual base salary;
  - c) a cash bonus of \$200,000 this year for completing ten years as AU president, and deferred bonuses of \$200,000 at the completion of my second and fourth years of my five-year commitment. These bonuses would be in addition to my annual base salary, annual merit awards, and the retention incentive.

### 4. Top Ten Listing

- Although I am aware of the public attention given to the annual top ten listing of compensation for university presidents, the wide variation of circumstances for any president in a given year makes this an unreliable comparative listing. While it is good to get out of the glare of publicity with respect to compensation, it may be increasingly difficult for the Committee to assure that I do not appear on the list. Last year I was # 11, but this year, for example, due to the delay in the Committee's review, I will receive both my as-yet-undetermined increased compensation for last year and the increased compensation for this year, all in the same year.
- Moreover, because my length of service as president is more than double the national average, comparing me with presidents with only a few years' service is apt to be a less reliable comparative indicator the longer I remain at AU.

## Draft Minutes of Compensation Committee Meetings

American University Board of Trustees

September 8, 2004

The Compensation Committee met in New York City, at the offices of Towers Perrin, George Collins presiding. Leslie Bains was present; Pete Smith participated by phone; Gary Cohn was unable to attend. Richard Meiseid of Towers Perrin was also there.

Richard reviewed the implications of the Intermediate Sanctions and presented Towers Perrin's survey report comparing AU executive compensation to the special comparison group that AU had been using in previous years. This group is comprised of universities that are generally larger than AU, but representative of the universities with which we compete for students and leaders.

AU's compensation policy has been to target executive compensation at the 75<sup>th</sup> percentile of the survey comparison group for similar positions. The Towers Perrin survey data showed that for most positions, AU is paying well above this target – in fact, above the 90<sup>th</sup> percentile for a number of positions.

This is a very different result from the comparative data we had been receiving from PricewaterhouseCoopers. The primary reason for this is that the PWC data had included only base salary and annual incentive bonus, not counting the deferred incentive element that Dr. Ladner and all of his cabinet members receive. Looking at annual cash compensation alone, the numbers from the two consultants are generally comparable.

Mr. Meiseid also shared verbally the results of Towers Perrin's proprietary study of 30 leading colleges and universities, including all the Ivies. This group is clearly a tier above American University and its primary comparison group, yet in many cases AU executives are compensated well above the 50<sup>th</sup> percentile of this premier group, and in some cases above the 75<sup>th</sup> percentile.

The Committee discussed this problem, noting that it was important to get a comfort letter from Towers Perrin or another independent source on the level of compensation for Dr. Ladner and his direct reports. Mr. Meiseid reported that we would be unlikely to get such a letter at AU's current compensation levels.

Mr. Smith reported that although Dr. Ladner and Don Meyers had both indicated that comfort letters had been secured in past years, no such letters had been requested from PricewaterhouseCoopers or any other firm and none had been received.

The meeting then focused on Dr. Ladner's compensation package. Dr. Ladner had given Mr. Collins a memorandum requesting a substantial increase in his compensation over the next three to five years. Included in this request was a large cash payment to make up for an underperforming split dollar insurance contract, an increased retention incentive

similar to the \$500,000 special incentive the Board had granted Dr. Ladner five years ago, and a one-time performance bonus recognizing his ten years of service to AU.

It was clear to the Committee that none of these additional payments would survive the Intermediate Sanctions test of reasonableness, and in fact that we needed to reduce Dr. Ladner's compensation going forward.

With salary, annual bonus, deferred incentive, and retention bonus, Dr. Ladner's effective annual compensation was currently in the \$850,000 range. Mr. Meischeid suggested that a more reasonable package going forward would be a salary of \$550,000 with a 20% deferred incentive (and no annual incentive) or a salary of \$600,000 with a 10% annual incentive. These levels could be considered reasonable in comparison to the Towers survey of the top 30 colleges and universities, although there was some question as to whether the use of the very largest and best colleges would be deemed reasonable.

The Committee also discussed this significant impact this would have on Dr. Ladner and his cabinet, and stressed the need for thoughtful communications on this issue.

November 4, 2004

The Committee met in Washington, at American University, prior to the November Board meeting. In attendance were Mr. Collins, Ms. Bains, Mr. Smith, Mr. Cohn (by phone), Dr. Ladner, and Richard Meischeid of Towers Perrin.

At Mr. Collins request, Mr. Smith outlined the issues that had been discussed at the September Compensation Committee meeting, noting the importance of the Intermediate Sanctions and the Board's concern about receiving a comfort letter. Mr. Smith also reported that past documentation supporting the use of the special AU survey comparison group made it difficult to justify using any other group, such as Towers Perrin's top 30 survey, to support AU compensation levels. This put somewhat tighter constraints on Dr. Ladner's compensation than we had considered in the September meeting.

All the Committee members emphasized that the situation did not reflect any dissatisfaction with Dr. Ladner's performance or that of his cabinet, which the Board thinks has been outstanding. The problem is the Intermediate Sanctions and the practical limits they impose, a factor that had not received sufficient consideration in the past.

After reviewing the survey report and the recommendations the Committee intended to make to the Board (eliminating the annual incentive going forward, adjusting base pay upward to the degree possible, encouraging Dr. Ladner to join one or two outside Boards, possibly making a substantial charitable contribution in his name), the Committee dismissed Mr. Meischeid and asked for Dr. Ladner's reaction.

Dr. Ladner had prepared a letter for Mr. Collins in which he questioned the accuracy of the compensation survey and the qualifications of Mr. Meischeid. Based on his significant expertise in executive compensation, Mr. Smith strongly objected to both

assertions and suggested that Dr. Ladner, Mr. Meisheid and a Committee member meet to work out any differences and reach agreement on the process going forward. This meeting was scheduled for November 15, 2004. Ms. Bains agreed to represent the Committee at this meeting.

Dr. Ladner also expressed great dissatisfaction with the communications process surrounding his compensation.

The Committee then explored possible ways to keep pay reasonable while lessening the negative impact on Dr. Ladner. These included the possibility of employing Dr. Ladner's wife on behalf of the University, paying 100% of Dr. Ladner's long-term disability insurance (a common practice, while AU pays only 50%), and encouraging Dr. Ladner to do more outside speaking for fees.

Dr. Ladner also raised the possibility of his being appointed Chancellor of the University, with reduced administrative responsibilities but continuing significant compensation. The Committee did not discuss this alternative in any detail, nor was the subject raised at the Board meeting the following day.

## Minutes of November 5, 2004 AU Compensation Committee Discussion

The Board held an extensive two-hour discussion on the issues pertaining to the compensation of the President and his Cabinet.

Pete Smith provided the Board a background review of the situation. At last November's Board meeting (AU executive compensation is typically reviewed in November), questions were raised about the quality and accuracy of the compensation data being provided the Compensation Committee by PricewaterhouseCoopers, AU's consultant.

At the same time, President Ladner had approached George Collins requesting a substantial increase in his compensation between now and his projected retirement date. While the Board universally recognized that Dr. Ladner's performance has been exceptional, concerns had already been expressed about the current level of his total compensation package.

Accordingly, the Committee decided to engage a new compensation consultant to get an accurate perspective of the competitive situation. Dr. Ladner and Mr. Smith interviewed three consultants and jointly chose Richard Meisheid of Towers Perrin, one of the world's leading compensation consulting firms.

Towers Perrin conducted a special survey of the twelve-university comparison group that the Compensation Committee had previously determined was appropriate for comparing AU executive pay. While these universities are larger than AU, the philosophy was that we need the kind of leadership that could successfully bring AU close to the first tier of American universities, and that Dr. Ladner and his cabinet represented that team. This justified paying compensation substantially higher than that paid by universities of American's size.

Working with Towers Perrin, it soon became apparent that the Intermediate Sanctions regulations could cause problems for us. In the past, PricewaterhouseCoopers had based its comparison on base salary and annual incentive bonus only, with the assumption that many competing universities paid annual incentives. In fact, very few universities pay annual incentives, and the few that do pay much smaller amounts than American has paid, and primarily to the President. Further, American's Cabinet officials have two incentives – an annual incentive and a deferred incentive. In addition, the Board had approved a special five-year retention incentive for Dr. Ladner, in effect adding \$100,000 per year to his compensation over the past five years.

Mr. Smith provided a brief summary of the Intermediate Sanctions and their effect: if the Board were found to be paying excessive compensation to AU's cabinet, there could be serious financial penalties for the executives involved and for the Board members who approved the compensation arrangements. There was strong agreement among the Board that we should ensure that the President's compensation and that of his cabinet was at a level where we would be able to get a "safe harbor" or comfort letter from Towers Perrin.<sup>1</sup>

The Towers Perrin consultants indicated that they could provide this letter if AU's compensation levels were under the 90<sup>th</sup> percentile of the survey comparison group. However, Dr. Ladner's compensation and that of many of his direct reports is well above the 90<sup>th</sup> percentile of the

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<sup>1</sup> The Compensation Committee had been led to believe that PricewaterhouseCoopers had been providing comfort letters annually in the past, but it turned out that they had not been requested to do so.

comparison group. Accordingly, we will need to reduce compensation opportunity going forward to be able to get the comfort letter.

Mr. Collins reported that the Compensation Committee felt the best way to achieve this would be to eliminate the annual incentive for Dr. Ladner and his cabinet, while possibly raising their base salaries to offset this loss to some degree.

Leslie Bains emphasized that this reduction was in no way a reflection of Dr. Ladner's or his cabinet's performance. The recommendation was being made to reflect the risk of coming under the sanctions and in light of the new information showing that AU executive compensation was much higher relative to market than the Board had previously been led to believe.

Mr. Collins pointed out that Dr. Ladner had reviewed the Towers Perrin survey and questioned its accuracy and validity. Having access to a broad array of survey information, including a study of 30 top U.S. colleges and the Chronicle of Higher Education compensation data, the Committee believes that the survey is accurate and that further review would not change the overall results. However, we have agreed to work with Dr. Ladner to answer any questions he has about the data until there is mutual agreement that we have accurate information.

The Board expressed some concern about the significant gap between Ben's compensation expectations and what we would be able to pay under the sanctions. Ben's requests to Mr. Collins had included a significant make-up payment for an underperforming split dollar contract; a substantial recognition bonus for his ten years of service; a new retention incentive payable after five years; and increases in his annual cash compensation. Instead, we were facing a reduction in his pay.

The Board was also very concerned about the effect of this action on the Cabinet. Again, our assessment is that their collective performance has been exceptional, and individually we are highly impressed with the team Dr. Ladner has assembled. A number of Directors strongly recommended that we work with the Cabinet to ensure that our decisions reflect their needs (e.g., perhaps retaining the annual incentive instead of the deferred incentive).

Concerns were also expressed about communications and the impact on morale, retention, public relations, etc. A number of Trustees also strongly suggested that we ask qualified outside legal counsel to review the situation, to ensure that we are taking the right actions and to determine whether other solutions to this issue could be found. The Committee agreed to do this.

The Committee's recommendation to resolve this situation were as follows:

1. Eliminate the annual incentive program for the Cabinet, going forward (beginning with the current 2004-2005 fiscal year).
2. Adjust base pays for Dr. Ladner and his Cabinet (reflecting Dr. Ladner's evaluation) so that they approach the targeted percentile of the survey group.
3. Allow Dr. Ladner to serve on outside Corporate Boards, from which we had prohibited him in the past, subject to Board approval. This would enable him to make up some of the compensation he loses through this adjustment.
4. Encourage Dr. Ladner to accept more outside speaking engagements for fees, again to help offset lost compensation.

5. Pay 100% of his Long Term Disability insurance, as is typical practice in other universities (AU now only pays 50% of this cost).
6. Investigate the feasibility of making a special, one-time contribution of \$200,000 to a charity of Ben's choice, in Ben's name.<sup>2</sup>

The Committee also reported that Ben had suggested that paying a salary to Nancy, his wife, for her services on behalf of AU could help the situation. There were serious reservations about this expressed by a few Board members. There was also discussion of possible consulting contracts following retirement but it was understood that any decision on this would be deferred until the time of his retirement.

The Board also discussed what to do with the current annual incentive program, which had been in effect through fiscal 2003-2004 and for which payments are normally approved in the November Board meeting following the fiscal year end. The Committee's recommendation was that these incentives be paid, since the executives had performed throughout the year fully expecting the program to be in effect, and since their performance had once again been outstanding.

Following extensive discussion of these and related concerns, the Board passed the following resolution:

"Be it resolved, that the Compensation Committee will work with Towers Perrin to develop a compensation package for Dr. Ladner comprised of base pay and the deferred incentive compensation, at a level that will reflect his outstanding performance while being in with the guidelines the Committee has proposed.

Be it further resolved that the Committee will work with Towers Perrin and Dr. Ladner to develop similar compensation packages going forward for the Cabinet.

Be it further resolved that the Board will authorize a payment of an annual incentive award for Ben for 2003-2004 performance equal to the same percentage of his base pay that he received for 2002-2003, which is the maximum award under the program. This will be the last annual incentive payment for Dr. Ladner.

Be it further resolved that the Board authorizes Dr. Ladner to distribute annual incentive awards for 2003-2004 performance totaling the same percentage of pay as distributed to his cabinet last year, subject to his evaluation of their individual performance and final Compensation Committee review.

Be it further resolved that Mr. Collins inform Dr. Ladner of the Board's decision to allow him to join up to two outside Boards of Directors, subject to the Board of Trustees' approval as to the boards he will join."

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<sup>2</sup> A few Directors expressed serious reservations about diverting moneys contributed to AU to another charity. No vote was taken on this recommendation.

To: James P. Joseph, Esq.  
Arnold & Porter LLP

From: Ken Yormark, Managing Director

Date: September 27, 2005

Subject: Independent Investigation – American University  
Adjustments Based on Dr. Ladner's Response

September 27, 2005  
Independent Investigation – American University  
Attorney Work Product – Privileged & Confidential

### Background

Arnold & Porter LLP ("Arnold & Porter") has been retained by the Board of Trustees (the "Board") of American University (the "University") to investigate allegations raised in an anonymous whistleblower letter related to University reimbursement and payment of expenses incurred by President and Mrs. Benjamin Ladner and to provide recommendations regarding expense reimbursement policies and practices. The undated whistleblower letter was post-marked March 3, 2005 and sent to selected members and former members of the Board.

Arnold & Porter subsequently engaged Protiviti to provide investigative assistance in this matter.

On July 29, 2005, Protiviti issued a preliminary report ("Preliminary Report"), and on August 19, 2005, issued a final report ("Final Report"), of its findings and recommendations. In the Final Report, we identified expenses relating to the Ladners that were either paid directly or reimbursed by the University during the fiscal years ending April 30, 2003, April 30, 2004 and April 30, 2005, and that did not have an apparent or documented University-related purpose, i.e., that were personal expenses. Also on August 19, but after the Final Report had been issued, Dr. Ladner's representatives provided a response to the Preliminary Report. Dr. Ladner's representatives also provided a September 10 response to a series of long-standing questions, summarized by Arnold & Porter on September 1 in an e-mail to Dr. Ladner's representatives. Dr. Ladner's representatives also made a presentation and provided materials to the Board on September 12 and provided a response on September 20, 2005 to questions posed to Dr. Ladner's counsel by Leslie Bains and Tom Gottschalk after the September 12, 2005 Board meeting. In addition, Meg Clemmer, Dr. Ladner's Executive Assistant, provided a signed statement to Arnold & Porter on September 21, 2005. (A copy of Mrs. Clemmer's statement is attached as Exhibit 1.)

In this memorandum, we address each of the personal expenses identified in the Final Report, consider the responses from Dr. Ladner's representatives and make those adjustments we conclude are warranted.

We emphasize that Protiviti's role in this matter has been simply to analyze whether expenses had a University-related purpose or were personal expenses. We express no view on whether or not any payments or reimbursements were authorized by the University or as to the appropriate tax treatment of any item.

We also note that, in our analysis, we found in a great many cases that there was no detailed documentation or other evidence concerning the purpose and nature of an expense. Consequently, by necessity we were required to make estimates and determinations based on the limited information available. We made every effort to arrive at reasonable estimates and determinations of the amounts of University-related expenses and personal expenses. In making our estimates and determinations, we did not require conclusive evidence in order to conclude either that an expense was University-related or that an expense was not University-related, and we did not apply a higher "burden of proof" one way or the other.

**Findings as Adjusted**

1. Professional Services.

a. Chef. During FYs 2003-2005, Rodney Scruggs was employed by the University as chef at the Residence. In addition to cooking for University events, Mr. Scruggs cooked for Dr. and Mrs. Ladner on a daily basis. He also purchased and packed groceries and prepared meals, along with heating instructions, for Dr. and Mrs. Ladner to take to Gibson Island. In addition, approximately five times per year, Mr. Scruggs traveled to Gibson Island to cook for Dr. and Mrs. Ladner. The following is a schedule of Mr. Scruggs' salary and benefits:

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
Salary	\$68,333.32	\$73,333.32	\$83,666.64	\$225,333.28
Benefits 27% of salary	<u>18,450.00</u>	<u>19,799.99</u>	<u>22,589.99</u>	<u>60,839.98</u>
Total salary and benefits	\$86,783.32	\$93,133.31	\$106,256.63	\$286,173.26

Based upon an analysis of workdays devoted to University events, in the Final Report 85% of Mr. Scruggs' salary and benefits were estimated to be non-University related.

**Dr. Ladner's Response:** Dr. Ladner provided a calculation that Mr. Scruggs spent 3.5 days preparing for each event and an additional 30 days preparing for informal University-related events, which indicated that his non-University time was only 25%. No documentation relating to informal events was presented. Dr. Ladner acknowledges that Mr. Scruggs regularly prepared the Ladners' personal meals at the Residence.

**Recommendation:** Events ranged from very small (under 10 attendees) to large (over 100 attendees). It is recommended that two days additional preparation time be taken into consideration for events held for more than 25 attendees. Mrs. Clemmer, in her statement, states that she knows of only "rare[]" unscheduled or impromptu events or meetings at the Residence, noting three such events that she is aware of since April 1, 2002. Given Mrs. Clemmer's statement and the fact that no documentary evidence has been provided relating to the 30 impromptu events claimed by Dr. Ladner, we have made no additional allowance for preparation for the claimed impromptu events. Using the following calculation, the estimated time preparing non-University-related meals is 72%:

Base workdays	240
Less: estimated days the Ladners not in town	(30)
Days spent preparing meals	210
Less: number of University event days	(32)
Additional 2 days for each 25+ person event	(26)
Days spent preparing non-University-related meals	152
Percentage of meal preparation days – non –University	72%

b. Senior Staff Assistant. During FYs 2003-2005, Sally Ekfelt was employed by the University as senior staff assistant at the Residence. The following is a schedule of Mrs. Ekfelt's salary and benefits:

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
Salary	\$50,333.32	\$55,833.32	\$59,666.64	\$165,833.30
Benefits 27% of salary	<u>13,590.00</u>	<u>15,075.00</u>	<u>16,110.00</u>	<u>44,775.00</u>
Total salary and benefits	\$63,923.32	\$70,908.32	\$75,776.64	\$210,608.30

AUSF 009915

It was recommended in the Final Report that 50% of Mrs. Ekfelt's salary and benefits be treated as non-University-related based upon the time she spent on Mrs. Ladner's personal matters.

**Dr. Ladner's Response:** Dr. Ladner estimates Mrs. Ekfelt's time spent on non-University matters to be 5%. Mrs. Ekfelt states in a statement provided to Dr. Ladner's counsel that she spent 5% of her "overall time at work" scheduling "personal appointments for Mrs. Ladner (e.g. medical appointments and hair appointments) and ... run[ning] personal errands or participat[ing] in the planning of personal events for Mrs. Ladner."

**Recommendation:** It is recommended that consideration be given to Mrs. Ekfelt's major duties and responsibilities in arriving at the final figure for the personal benefit of Mrs. Ekfelt's services. Mrs. Ekfelt had four major responsibilities:

1. Personal assistant to Mrs. Ladner, managing all of Mrs. Ladner's administrative needs. In this capacity, she maintained Mrs. Ladner's calendar, responded to University-related correspondence and planned events hosted by the Ladners at the Residence and Gibson Island.
2. Point of contact for the Residence, serving as receptionist. She answered the phone and responded to the door bell.
3. Office manager of the Residence, maintained personnel records for the staff. She also collected and maintained voucher and expense records; was in charge of the petty cash fund; acted as the liaison between staff and Dr. and Mrs. Ladner; and ensured that all employees had the supplies and equipment necessary to perform their duties. Mrs. Ekfelt also maintained a record of staff activities performed during the absence of Dr. and Mrs. Ladner at the Residence.
4. Manager of Residence property, cared for the Residence facility, furniture and equipment within the Residence and grounds surrounding the Residence.

Assuming that Mrs. Ekfelt expended equal portions of her time to each of these four duties, it is recommended that 50% of her responsibilities as personal assistant to Mrs. Ladner be estimated as non-University-related, 25% of her duties as point of contact in the Residence be estimated as non-University-related and 25% of her duties as office manager as spent coordinating the personal services provided by the chef and the driver to the Ladners. It is recommended that all other duties be considered University-related. Therefore, it is recommended that 25% of Mrs. Ekfelt's salary and benefits be treated as personal expense. Mrs. Ekfelt's statement provided to Dr. Ladner's counsel contradicts statements made during her interview with Arnold & Porter and Protiviti and does not take into account Mrs. Ekfelt's duties coordinating and supervising the personal services provided to the Ladners by the chef and the driver, or the fact that approximately 10% of the events hosted by the Ladners, and organized by Mrs. Ekfelt, were personal and not University-related. Finally, Mrs. Clemmer, in her statement, explains that for four months in 1998-99 she performed the duties of the Senior Staff Assistant for Mrs. Ladner (i.e., Mrs. Ekfelt's job). Of the duties performed for Mrs. Ladner and the Residence, Mrs. Clemmer estimates that 20-30% of her time was spent on personal services for Mrs. Ladner.

c. **Driver.** During FY's 2003-2005, a driver at the disposal of Dr. Ladner was also periodically employed by the University. The following is a schedule of the driver's salary and benefits:

	FY 2003	FY 2004	FY 2005	Total
Salary	\$37,733.22	\$32,879.16	\$14,311.51	\$84,923.89
Benefits 27% of salary	10,187.97	8,877.37	3,864.11	22,929.45
Total salary and benefits	\$47,921.19	\$41,756.53	\$18,175.62	\$107,853.34

In the Final Report, it was estimated from available limousine driver records that 40% of the drivers' time was spent driving Mrs. Ladner and 10% was spent running errands.

AUSF 009916

**Dr. Ladner's Response:** Dr. Ladner provided an analysis that only 28% of the drivers' time was non-University-related.

**Recommendation:** We have reviewed available drivers' records, taking into account the statement of Mrs. Clemmer (who supervised the driver) and conclude that 50% is a conservative estimate of the drivers' time spent on non-University duties. It is recommended that 50% of the drivers' salaries and benefits be treated as a personal expense.

2. Food

From Tables 7 and 8 to the Final Report, we calculated that the cost of food personally consumed by the Ladners at non-University-related meals or events was allocable as follows, 80% to food consumed at the Residence and 20% to food consumed at Gibson Island:

	<u>FY 2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>Total</u>
Residence	\$21,686.03	\$22,789.42	\$23,507.64	\$67,983.09
Gibson Island	<u>5,421.51</u>	<u>5,697.35</u>	<u>5,876.91</u>	<u>16,995.77</u>
Total	\$27,107.54	\$28,486.77	\$29,384.55	\$84,978.86

**Dr. Ladner's Response:** Dr. Ladner provides arguments that the cost of the personal food consumption is overstated, but does not propose a specific alternative amount. He also states that the allocation to food consumed at Gibson Island should be 5%.

**Recommendation:** The cost of University-related food was computed from detailed records kept by Mrs. Ekfelt on the cost of events. No other documentation was presented of any other University-related food purchases. Therefore, it is recommended that the total food purchases, less the food consumed at University-related events, be treated as personally consumed by the Ladners. Consideration was given to Dr. Ladner's statement that 20% of the food taken to Gibson Island is high. However, due to the fact that Dr. Ladner's calendar fails to indicate his whereabouts on the weekends; his calendar shows several extended weekends; and witnesses support the fact that the Ladners spent weekends in Gibson Island (including a statement by Mrs. Clemmer that Dr. Ladner spent approximately 26% of his time between April 1, 2002 and April 30, 2005 at Gibson Island), this appears to be a fair estimate based on available information.

3. Wine and Liquor

From Tables 6 and 8 to the Final Report, we calculated that the cost of wine and liquor consumed by the Ladners at non-University-related meals or events was as follows:

<u>FY 2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>Total</u>
\$15,496.53	\$10,627.85	\$17,360.11	\$43,484.49

**Dr. Ladner's Response:** Dr. Ladner contends that additional wine and liquor was served prior to events at the Residence and was not recorded in the event folders. In addition, he stated that the Residence wine cellar inventory has increased over the past three years. No documentation has been provided to support these statements.

AUSF 009917

**Recommendation:** Absent evidence of additional University-related wine consumption, it is recommended that the amount considered personal remain as calculated from Mrs. Ekfelt's records. If documentation is provided and/or an independent inventory is conducted to support these statements, it is recommended that adjustments be made.

4. Entertaining

Based upon our procedures, we identified a total of 95 events that were held at the Residence during FYs 2003-2005. Detailed records were received from Mrs. Ekfelt for each event held at the Residence.

In the Final Report we identified nine events held at the Residence or at the President's house at Gibson Island in FYs 2003-2005 paid for by the University with no apparent University-related purpose:

FY 2003:

1. Ladies luncheon (\$1,637.41);
2. Dinner party (\$2,059.25); and
3. Dr. Ladner's birthday party (\$1,196.60).

FY 2004:

1. Gibson Island garden party luncheon (\$5,274.06);
2. School headmaster's cocktail party (\$895.55; held at Gibson Island); and
3. Dr. Ladner's birthday party (\$2,252.29).

FY 2005:

1. Mrs. Ladner's birthday party (\$1,199.20);
2. Dr. Ladner's birthday party (\$1,517.00); and
3. Engagement party for Dr. and Mrs. Ladner's son (Dean) (\$1,381.55).

**Dr. Ladner's Response:** Dr. Ladner agrees that the aforementioned events, with the exception of the garden party, were personal in nature, and agrees to reimburse the University for \$12,138.85. Dr. Ladner contends that the garden party was University-related since it highlighted the University's landscape architecture and the attendees represented potential donors.

**Recommendation:** It is recommended that expenses for all nine events be treated as personal. No information was found to corroborate the fact that the garden party was University-related.

5. Travel

In the Final Report, we found no University-related purpose for the following portions of travel by the Ladners:

a. Overseas Travel

Dr. and Mrs. Ladner traveled to Dubai, UAE on May 22, 2003 and returned June 1, 2003. This trip included four days and five nights in Paris. No University-related activity was listed on Dr. Ladner's calendar or Mrs. Ladner's calendar for the days and nights in Paris. Lodging expenses of \$3,522.19 and food and beverage expenses of \$1,160.20 were incurred for the days and nights in Paris.

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Dr. and Mrs. Ladner traveled to Dubai, UAE on February 11, 2004 and returned February 18, 2004. This trip included two days and three nights in London. No University-related activity was listed on Dr. Ladner's calendar or Mrs. Ladner's calendar for the days and nights in London. Lodging expenses of \$2,458.54 and food expenses of \$1,054.57 and car expense of \$425.75 were incurred for the days and nights in London.

Dr. and Mrs. Ladner traveled to Dubai, UAE on May 31, 2004 and returned June 6, 2004. This trip included one day and two nights in London and one day and two nights in Rome. No University-related activity was listed on Dr. Ladner's calendar or Mrs. Ladner's calendar for the day and nights in London. A "working lunch" is listed in Rome with James Creagan of John Cabot University. Lodging expenses of \$2,492.49 (\$1,057.71 in Rome and \$1,434.78 in London) and food and beverage expenses of \$1,758.73 (\$1,285.85 in Rome and \$472.88 in London) were incurred for the days and nights in London and Rome.

**Dr. Ladner Response:** Dr. Ladner stated that he believed that the Ruler of Sharjah would reimburse the University for his layovers to and from AU Sharjah and submitted an email communication from Mr. Hamid Jafar which stated that layovers are appropriate. Dr. Ladner stated that he met with Dr. Creagan of John Cabot University regarding AU's World Capitals Program during his visit to Rome.

**Recommendation:** It is recommended that the foregoing expenses be treated as personal expenses, with the following caveat. There is a discrepancy in statements concerning Dr. Ladner's trip to Rome. Mrs. Clemmer states that, on May 2, 2005, Dr. Ladner instructed her to add into his calendar for June 5, 2004 a lunch with James Creagan. Mrs. Clemmer had no information or independent knowledge that the meeting with Dr. Creagan actually occurred. The Board contacted Dr. Creagan and was told that he could neither confirm nor deny the meeting with Dr. Ladner. (A copy of Dr. Creagan's e-mail is attached as Exhibit 2.) Dr. Ladner's attorneys assert that Dr. Creagan stated that the meeting did take place. If we receive a statement by Dr. Creagan confirming the meeting, we will analyze the Rome leg of the trip further to determine if it should be treated as University-related. We also note that, if the Ruler of Sharjah were to reimburse the University for the foregoing amounts, then of course the economic burden of these expenses would not be on the University.

b. Domestic Travel

On July 3, 2003, Dr. Ladner purchased a one-way ticket to South Carolina for \$571.50 using his University-provided charge card. Mrs. Ladner purchased gas on the same day in South Carolina on her University-provided charge card. There was no indication of a University-related event in South Carolina on Dr. Ladner's calendar or Mrs. Ladner's calendar on that date.

**Dr. Ladner Response:** Dr. Ladner agrees that the ticket to South Carolina was personal in nature, inadvertently charged to his University card and agrees to reimburse the University for that amount.

**Recommendation:** It is recommended that University accept reimbursement from Dr. Ladner for \$571.50 in payment for the airline ticket to South Carolina.

On February 28, 2005, Dr. and Mrs. Ladner traveled to Miami and then to Palm Beach on March 3, 2005, returning home on March 4, 2005. Both Dr. and Mrs. Ladner's calendars reflect "development" - two evening appointments on March 1, and one lunch and one dinner appointment on March 3. Available receipts indicated that \$1,695.65 was spent in lodging and \$457.62 on food for four nights in Boca Raton. Airfare for Dr. and Mrs. Ladner's tickets was \$2,223.60 to Ft. Lauderdale. American Express statements were not provided for this month. For the Final Report, \$1,100.00 of these expenses were treated as personal.

**Dr. Ladner's Response:** Dr. Ladner provided additional information reflecting additional meetings Dr. Ladner held in Florida.

**Recommendation:** It is recommended that the Florida trip be considered entirely University-related.

On April 6, 2005, Mrs. Ladner traveled to Atlanta, a day later to Greenville, South Carolina and then to Charlotte, North Carolina. Dr. Ladner traveled to Atlanta on the same day but not to the other locations. Both airline tickets were charged to Dr. Ladner's University-provided American Express Card. The cost of Mrs. Ladner's airline ticket was \$3,425.40. No University-related purpose was identified for this trip. For the Final Report, the cost of Mrs. Ladner's ticket was treated as a personal expense.

**Dr. Ladner's Response:** Dr. Ladner provided information to support the fact that the difference of the cost of the trip to Atlanta and the trip with stopovers in North Carolina and South Carolina was \$314.00, and agrees to reimburse the University for that amount.

**Recommendation:** It is recommended that the University accept reimbursement from Dr. Ladner for \$314.00, representing the difference in the airfares.

On three occasions, Mrs. Ladner accompanied Dr. Ladner to New York but did not participate in University-related meetings. On each of these dates, the University President's driver drove Dr. and Mrs. Ladner to New York and on each of these dates Dr. and Mrs. Ladner shared private meals. On December 8, 2002, they dined at the Four Seasons and charged \$199.25 to Dr. Ladner's University credit card. On February 5, 2003, they dined at Daniel's and charged \$368.80 to Dr. Ladner's University credit card. On September 11, 2003, they dined at Jean Georges and charged the University for the expense of \$173.47. The Final Report concluded that 50% of these charges were non-University related since Mrs. Ladner had no University purpose in New York.

**Dr. Ladner's Response:** Dr. Ladner provided information to indicate that Mrs. Ladner had a University purpose for her trip to New York in February, 2003. He provided no explanation for the other two trips.

**Recommendation:** It is recommended that \$186.37, representing 50% of the dinners on December 8, 2002 and September 11, 2003, be treated as personal expenses.

Summary of Personal Travel

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
Paris 5/23-5/25 & 5/30-6/1/03	-	\$4,682.39	-	\$ 4,682.39
London 2/15-2/18/04	-	3,998.86	-	3,998.86
London 5/31-6/1/04	-	-	\$1,907.66	1,907.66
Rome 6/4-6/6/04	-	-	2,343.56	2,343.56
South Carolina 7/3/03	-	571.50	-	571.50
South Carolina & North Carolina 4/6/05	-	-	314.00	314.00
New York City 12/8/02, 9/11/03	<u>\$99.63</u>	<u>86.74</u>	-	<u>186.37</u>
<b>Total</b>	<b>\$99.63</b>	<b>\$9,339.49</b>	<b>\$4,565.22</b>	<b>\$14,004.34</b>

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6. Credit Card Charges.

We examined Mrs. Ladner's charges during FYs 2003-2005 made with University-provided credit cards. As set out in Table 3A to the Final Report, we concluded that, during that period, charges totaling \$12,020.69 had no apparent or documented University-related purpose.

Mrs. Ladner's expenses included cleaning supplies and laundry fragrance, as well as gift certificates purchased at Nordstrom's for staff, a shower gift for the President's secretary and crystal. Also, numerous silver frames and photo albums were purchased and described by Mrs. Ladner as gifts. Other purchases included jewelry store items, vacuum cleaner with accessories, glasses, antiques, computer equipment, and cashmere sweaters. (See Table 3A)

**Dr. Ladner's Response:** Dr. Ladner contends that all the expenses charged on Mrs. Ladner's credit cards had a University purpose with the exception of one \$72.00 charge for a rental car.

**Recommendation:** It is recommended that \$12,524.14 in unsubstantiated charges to Mrs. Ladner's University-provided credit cards be treated as personal expenses. Although Dr. Ladner explained that some of the charges were for gifts to University employees, that fact does not make it a University expense. These items were apparently given and accepted as personal gifts from Mrs. Ladner. In addition, a vast amount of receipts were missing, but a charge was treated University-related if the nature of the charge had an inherent University relationship. Also, restaurant, food and beverage charges were accepted on face value, despite the facts that no receipts were provided and that often little information indicated the business nature of the lunch or dinner. In the Final Report, we categorized a charge of \$503.45 from Bed Bath & Beyond as University-related. Information recently obtained from Meg Clemmer revealed that this charge was for a wedding gift to Mrs. Clemmer. It is, therefore, now recommended that this charge be considered non-University-related.

7. Automobiles.

In the Final Report, we concluded that none of Mrs. Ladner's use of the car leased for her by the University was University-related, so that all expenses related to that car and paid or reimbursed by the University should be considered as personal expenses, as follows:

	<u>FY 2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>Total</u>
Lease payments	-	\$ 9,894.93	-	\$ 9,894.93
Insurance	-	2,750.42	-	2,750.42
Gas	\$286.74	566.55	\$819.23	1,672.52
Repairs	-	308.06	101.95	410.01
Total	\$286.74	\$13,519.96	\$921.18	\$14,727.88

**Dr. Ladner's Response:** Dr. Ladner states that all of Mrs. Ladner's car expense is University-related because her vehicle was authorized by his University contract. He further states that Protiviti fails to acknowledge Mrs. Ladner's University-related activities and accomplishments.

**Recommendation:** ~~There has been no documentation provided detailing Mrs. Ladner's vehicle usage for University activities.~~ It is recommended the vehicle expense be considered a personal expense.

During FYs 2003-2005, it is clear that Dr. Ladner had some personal use of his car, which was owned by the University. For each of the calendar years 2002-2004, he certified that 10% of the car use was for personal purposes. Dr. Ladner provided no documentation supporting this 10% allocation. In the absence of documentation, we have

accepted this 10% allocation. This 10% allocation results in the following personal expenses for FYs 2003-2005 for this car:

	<u>FY 2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>Total</u>
10% of estimated lease value	\$410.00	\$590.00	\$1,175.00	\$2,175.00

As noted above, we concluded that 50% of the driver's salary and benefits constituted a personal expense, but there is not sufficient documentation of which car he was driving to enable an allocation of this personal expense between the two cars. We conclude, however, that the personal use allocations of 10% for the University-owned car and 100% for the University-leased car, taken together, produce a reasonable approximation of the personal automobile use paid for by the University.

8. Limousine Rental.

We examined limousine rentals for Mrs. Ladner charged to the University during FYs 2003-2005. We concluded in the Final Report that certain of these did not have a University-related purpose, as follows:

<u>FY 2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>Total</u>
\$696.94	\$1,410.71	\$4,294.92	\$6,402.57

**Dr. Ladner's Response:** Dr. Ladner provided information to demonstrate that two of these rentals were University-related. (He provided information on a third rental, but it was not one of the rentals that we considered personal.)

**Recommendation:** Adjustment should be made for these two trips, so that the amount for FY 2005 is reduced to \$3,752.28 and the total is reduced to \$5,859.93.

In the Final Report, we concluded that limousine rental expenses of \$1,909.67 incurred by Dr. Ladner while the driver was otherwise engaged during Mrs. Ladner or running errands should be treated as a personal expense.

**Dr. Ladner's Response.** Dr. Ladner provided documentation which demonstrated that a portion of the aforementioned limo expense was incurred in another state and that circumstances existed justifying the use of limos while Mrs. Ladner was being driven by the driver.

**Recommendation:** It is recommended that this amount not be reflected as a personal expense.

9. Metropolitan Club Dues.

In the Final Report, we concluded that the University's reimbursement of Dr. Ladner's Metropolitan Club expenses (\$6,729.47) was not University-related.

**Dr. Ladner's Response:** Dr. Ladner provided information that 10% of his use of the Metropolitan Club was University-related.

**Recommendation:** The amount of the reimbursement treated as a personal expense should be reduced to \$6,000.

10. Miscellaneous.

In the Final Report, we concluded that the following were personal expenses:

Expenses for items charged by drivers, including 50% of gas	\$1,303.72
Financial services (tax return preparation)	750.00
Medical services	407.00
Minibar purchases	519.16
XM radio for both cars	<u>404.43</u>
Total	\$3,384.31

**Dr. Ladner's Response:** Dr. Ladner indicated that the minibar purchases did not include any alcoholic beverages.

**Recommendation:** Minibar expenses should not be treated as personal expenses.

\* \* \* \*

We attach a chart summarizing our findings as to personal expenses.

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SUMMARY OF PERSONAL EXPENSES

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
1. Chef's services	\$76,504.77	\$67,055.98	\$62,483.99	\$206,044.74
2. Senior staff assistant services	15,980.84	17,727.08	18,944.16	52,652.08
3. Driver's services	23,860.54	20,878.26	9,087.81	53,826.61
4. Food at Residence	21,686.03	22,789.42	23,507.64	67,983.09
5. Food at Gibson Island	5,421.51	5,697.35	5,876.91	16,995.77
6. Wine and liquor	15,496.53	10,627.85	17,360.11	43,484.49
7. Entertaining	4,893.26	8,421.90	4,097.75	17,412.91
8. Travel	99.63	9,339.49	4,565.22	14,004.34
9. Automobiles	696.74	14,109.96	2,096.18	16,902.88
10. Credit card charges by Mrs. Ladner	4,480.44	3,420.07	4,623.63	12,524.14
11. Limousine rental	696.94	1,410.72	3,752.28	5,859.94
12. Metropolitan Club	-	6,000.00	-	6,000.00
13. Financial services	-	750.00	-	750.00
14. Credit card charges by drivers	-	-	1,303.72	1,303.72
15. Medical services	-	-	407.00	407.00
16. XM radio	-	26.61	377.82	404.43
<b>Total</b>	<b>\$169,817.23</b>	<b>\$188,254.69</b>	<b>\$158,494.22</b>	<b>\$516,556.14</b>

AUSF 009924

Statement of Margaret H. "Meg" Clemmer

1. I am currently, and have been since December 1, 1996, the Executive Assistant to the President of American University, Dr. Benjamin Ladner.
2. This statement is the result of an initial 30 minute telephone conversation I had with Mr. Joseph and Mr. Ryan on Wednesday, September 14<sup>th</sup>. The initial purpose was for Mr. Ryan to be introduced to me and to hear my views on this matter. I met with Mr. Joseph the following day and took a series of several additional days to complete my work on my own. The attorneys asked me to review for one last time all of the records available to me to answer a series of questions. This resulting statement is one where I have drafted much of the language you see myself, or reviewed and in a few instances adopted language written by the attorneys because it accurately reflected what I told them. I have not been put under any pressure to address or change any fact or word in this statement and every sentence here accurately reflects my views.
3. In preparing this statement, I reviewed all documents available to me resulting from this investigation. A portion of these are documents I maintain as part of my duties as Executive Assistant to the President. These are also documents I have analyzed and calculated at the request of Dr. Ladner.
  - A. Dr. Ladner's calendar from April 1, 2002 through April 30, 2005 and all edit notes for the same
  - B. Driver's schedule for the same time period

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C. 'Irry-bitty' travel sheets for the same time period

D. 'Favorites' data base for favorite restaurants by city

4. I make my statements based upon my review of these documents I have described as well as my personal knowledge of the schedule and habits of Dr. Ladner.

5. I estimate that Dr. Ladner spent 300 days at his house in Gibson Island during the 1,125 days between April 1, 2002 and April 30, 2005, or approximately 26% of his time.

6. It is not Dr. Ladner's habit to hold unscheduled or impromptu University-related meetings at the President's residence (the "Residence") at lunch or dinner. Since April 1, 2002, I recall that he only rarely hosted a lunch meeting of this type at the Residence with a member of the University Board or Cabinet. For example, I either know through personal observation or have heard through conversations with the Residence staff (prior to April 2005) that Dr. Ladner occasionally had a dinner meeting with Trustee John Petty or Vice President Bob Pastor. I am aware that both of these gentlemen have attended one or more of Dr. Ladner's Residence birthday dinners and believe he considered them to be personal friends. I know of one impromptu lunch at the residence with George Collins on May 15, 2003. I am not aware of any other unscheduled or impromptu lunches or dinners held at the Residence.

7. In the early months of my employment, Dr. Ladner explained to me how University-related expenses and his family's personal expenses were handled.

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Dr. Ladner said that he had an arrangement with the Board, and that the expenses were tracked through "Don's shop" (the Office of Finance) and then reconciled at the end of each year. I do not recall the specific circumstance that prompted his telling me that but it did answer questions I had as I was learning my job.

8. In the fall of 1997 I met with Dr. Ladner, as I normally did every weekday morning at 8:00 am. I handed him an accepted invitation for an event that same evening. The instructions printed on the invitation asked that it be presented at the door for admission. We were nearing the end of our meeting and I looked down to browse my notes and be sure I had all my questions answered. When I looked up from my notes I did not see the invitation which I expected would be on this desk. In an effort to be sure it had not been misplaced I asked Dr. Ladner what he had done with it. His immediate response was "How dare you ask me what I have done with something. That is none of your business." I was very quick to defend my action indicating I was just afraid it had been misplaced - I was just trying to help. His response to my defense was, "it is not your job to check up on me. I did fine before you came and, I will again if you leave."

9. On December 2, 1998, Ms. Karyn Thomas was hired as Senior Staff Assistant at the President's Residence (her working title was Mrs. Ladner's Assistant). She

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worked in the Residence until January 4, 1999, when she resigned her position.

As Mrs. Ladner is not a University employee, I technically supervised this

position, and, therefore, Ms. Thomas called me to provide me with her resignation. In resigning, Ms. Thomas stated that she was or had been an ambassador's wife, and therefore knew how personal and business expenses of an official residence, like the Ladner's Residence, should be maintained. Ms. Thomas expressed her concern that there was no separation of personal and University-related expenses at the Residence. Ms. Thomas stated that she "could not be a part of this" and resigned.

10. In my duties as Dr. Ladner's Executive Assistant, I knew that Dr. Ladner did not make a clear distinction between University-related and personal expenses on the President's office side either. Ms. Thomas' statements, therefore, concerned me, and I felt both inadequate and inappropriate to either challenge or offer a response to Ms. Thomas. I immediately informed Dr. Ladner exactly what Ms. Thomas had said. Dr. Ladner was not in the office at the time.

11. In response to these concerns, Dr. Ladner became quite angry and informed me that Ms. Thomas did not understand how the University and he worked. He explained that "Don's shop" tracked and calculated all the personal benefits that he and Mrs. Ladner receive from living at the Residence and from his service as President and that, at the end of each year, he had to "settle up." He said that this is an arrangement he has with the Board and that he has their "full support."

12. Shortly thereafter on the same day, Ms. Thomas called me again. She said that Dr. Ladner had just called her and was yelling at her about her accusations and

told her to leave the Residence immediately. She told me she was doing so and also warned me that I should be careful working for a man like that.

13. Based on Dr. Ladner's representation to me that he received and paid an annual bill from the University for his personal expenses, I proceeded with my daily responsibilities. I processed expense accounts and reports provided to me by Dr. Ladner that included both personal expenses of the Ladners and University-related expenditures.

14. Dr. Ladner has always insisted on first-class hotel accommodations when he/they traveled. Early in my employment at the University, he gave me a copy of "American Express' Corporate Platinum Card Fine Hotels and Resorts" guide to use as a resource in selecting hotels for their overnight stays. Dr. Ladner also often sifted through hotel brochures he had brought back from international destinations giving me a ranked order of two or three to work with when planning a trip. The guidance was to stay below \$600/night internationally and \$400/night domestically while still honoring his specific requests. Sometimes that was not possible, and Dr. Ladner was always made aware of the room rates.

15. I recall on more than one occasion I was asked to book a hotel room for an additional night, on the arrival end of a trip. This allowed Dr. Ladner to check into his hotel room upon arrival rather than waiting until normal check in times later that day. The fee for this is one additional night's lodging.

16. With some frequency, Dr. Ladner would ask if I had gotten him/them the best room with the best view in his chosen hotel. He also routinely asked if I was able to secure the same exact room he had and liked on a previous trip. The emphasis was consistently placed on "his choosing the very best."
17. When planning a trip for Dr. Ladner he would say something on the order of, see if you can get Nancy and me a reservation for dinner at La Gavroche in London. (He suggested I invoke The Ruler of Sharjah's name if I have any trouble getting the reservation at La Gavroche.) For Los Angeles he made a similar request for Valentino or Water Grill; New York for Daniels or Brasserie La Cote Basque; in Paris for Guy Savoy and Restaurant Alain Ducasse au Plaza Athenee. Dr. Ladner would occasionally tell me that he "made no excuse for his travel standards." He said the Board was aware of how he travels and that he had/has "their full support."
18. In more recent years, Dr. Ladner complained about the exhaustion of international travel. He would tell me to arrange for him to stopover in London, Rome or Paris (he would decide which) so he could rest rather than flying straight through when coming or going from AU Sharjah. I do not recall any instances where Dr. Ladner met with development contacts during these layovers that are not already noted on his calendar.
19. Another one of my duties is to supervise the President's driver. I would divide up the driver's duties into three broad categories... (1) driving passengers, both University-related and personal, as designated by Dr. Ladner, (2) running

errands for the Residence and, occasionally, for the President's office, (3) vehicle repairs, maintenance, fueling, cleaning and other.

20. Having very carefully reviewed the driver's calendar details since 2002, I would estimate that, in driving passengers, the driver spent 60% of his time driving Dr. Ladner, 35% driving Mrs. Ladner, and 5% driving others. I would estimate that 45% of the time the driver drove Dr. Ladner it was for personal business (e.g., driving Dr. Ladner for the 136 "private" mid-day workout sessions at the Metropolitan Club). Of the time the driver drove Mrs. Ladner, I would also estimate 45% of the trips were personal (driving Mrs. Ladner or members of the Ladner family for appointments or personal business). Finally, I would estimate that just under half of the driver's errands were personal for the Ladners (picking up dry cleaning, picking up prescriptions, photo development, et cetera).

21. Several years ago, Mrs. Ladner called one afternoon and asked that I schedule the driver to pick up her son/daughter from the residence that evening and take him/her/them bar hopping in Georgetown for the evening. I felt the request was totally inappropriate and stated that Mrs. Ladner's response to me was, "I'm not asking." I replied, I know that, I'm telling you no, it is not appropriate.

22. For the period September 20, 1998 through February 2, 1999 (with the exception of 12/2/98 - 1/4/99) the Residence was without an assistant for Mrs. Ladner. Dr. Ladner requested that I assume those additional duties along with my normal responsibilities. (The AU campus Special Events Office

handled the residence event calendar during this period.) Through that time, I helped Mrs. Ladner with scheduling personal appointments, refilling prescription(s), coordinating driving needs including both personal and University related errands, and coordinating maintenance in the Residence. I spent roughly 10 hours of my work week acting as Mrs. Ladner's Assistant during that period. Of that time, I estimate I spent 2-3 hours a week handling Mrs. Ladner's personal requests. (My work week during that timeframe was 65 - 70 hours.)

23. In preparing to produce Dr. Ladner's calendar as part of the Board of Trustees' investigation, Dr. Ladner instructed me, on May 2, 2005, to add into his calendar for June 5, 2004 a lunch with James Creagan of John Cabot University. On May 4, 2005, Dr. Ladner further instructed me to add into his calendar for February 16, 2005 a lunch with Hani Farsi (AU Board Member); for July 20, 2003 a meeting with The Ruler of Sharjah (in London); and on November 30, 2004 a meeting in New York with Bill Jacobs (former Chair, AU Board). I have no information or independent knowledge if Dr. Ladner instructed me to add these meetings into his calendar because these meetings actually occurred and had been inadvertently left off his calendar. I simply have no way of knowing whether such meetings took place or not.

24. Soon after the investigation of Dr. Ladner's expenditures began, I realized his ~~personal and business expenses were not being separated annually as he had told~~ me. Additionally, the "settling up" at the end of each year was not a bill.

payable to the University by Dr. Ladner for their personal expenses; but an amount being assessed to his taxes as "imputed income." The term, "imputed income" is one I am generally familiar with. I also understand the difference between paying taxes on the value of something that benefits the person and not the University, vs. reimbursing the University for the actual cost of that item.

25. In the week leading up to August 24, 2005, Dr. Ladner told me "it turns out we've paid AU back too much for our personal stuff."

26. On April 26, 2005, Randy Goodman met with Dr. Ladner in the president's office. After the meeting had been underway for a while, Dr. Ladner emerged requesting coffee for the two of them. I immediately asked my normal question, are you having your usual Starbucks - double tall latte. He motioned for me to be quiet and said in a very low voice no the kitchen coffee is what is appropriate for this meeting. As soon as Mr. Goodman exited the building (which was about 10 minutes later) Dr. Ladner buzzed me on the intercom and said, "now get my Starbucks."

27. In my early days at AU, Dr. Ladner had developed a habit of tossing documents on the ledge of my desk. These documents often slid off the ledge down onto the work surface of my desk. On one occasion, he actually hit me in the face with the documents. I asked him quietly several times over a few months to please hand me documents rather than throwing them at my ledge. We even made a joke out of it once, but it continued. My office mate at the time asked

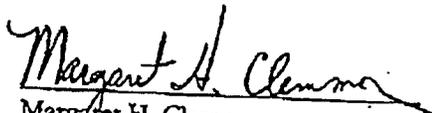
me why I put of with that sort of disregard. After a time, I mustered the courage to stand and tell him to never throw documents at me again. My office mate was in the room at the time as was the Provost.

28. Dr. Ladner's schedule was maintained with strict confidentiality at his direction. Authorized access was limited to Mrs. Ladner, my assistant and me. Under this shroud of secrecy, it was a serious handicap to organize the access and availability required for cabinet members, deans and other senior administrative members of the University (as well as Dr. Ladner's personal staff) to functionally move forward with their responsibilities. As a practical matter, building and Residence repairs and maintenance were often scheduled at the last minute with a very small window to complete needed tasks. At times, a premium had to be paid to have workers perform their duties at a time strictly of the Ladner's choosing, including nights and weekends.

29. On June 15, 2005, Mrs. B. Smith and her husband met with Dr. Ladner. I offered them refreshment from the kitchen upon their arrival. Before I had the opportunity to give them their beverages, Dr. Ladner had ushered them into his office and began the meeting. As soon as the beverages were prepared, my assistant and I carried them into Dr. Ladner's office and gave them to his guests. Dr. Ladner's comment as they are being served, "I don't normally ask my staff to do this sort of thing." However, this sort of "thing" was a regular occurrence. This is the first and only time I recall him making that remark to guests who were being served.

30. I have indicated to counsel for the Board of Trustees my serious personal concern that by disclosing the information in this sworn statement, it will be incorrectly interpreted by Dr. Ladner and others to be a disloyal act to him. I do not intend my actions to be disloyal, but one result of my action today is that I am certain Dr. Ladner will not wish me to return to my duties serving him. I further fear that because I have answered truthfully here, in words that I have chosen, my future employment status at American University, including prospects for promotion and advancement are clouded by my decision to answer fully and that I am likely to be the subject of retaliatory conduct for my actions. Because I believe I will be retaliated against, I have sought and received assurances this will not be the case.

I declare under penalties of perjury under the laws of the District of Columbia that the foregoing is true and correct to the best of my recollection.

  
Margaret H. Clemmer



James Creagan  
 <jfcreagan@yahoo.com>

To: James Joseph/Atty/DC/ArnoldAndPorter@APORTER  
 cc:  
 Subject: Re: Question regarding American University

09/09/2005 12:45 PM

Dear Mr. Joseph:

I have your letter of August 30, 2005 which has been forwarded to me. I retired from John Cabot University in August and have just arrived at the University of Notre Dame where I am a Guest Schoar and informal "Ambassador in Residence".

I am afraid that I cannot provide the kind of specificity you indicated for my meetings in Rome with Dr. Ladner. My agendas and calendars are in my household shipment, and, in any case, I often arranged meetings over the phone directly with my interlocutors. That would be especially true for a Saturday meeting, when I would be in the office but my secretary would not be there. She would get after me for doing things myself, but I did it anyway. I certainly met with Dr. Ladner several times in Rome and perhaps on the Saturday, June 5, 2004 you have noted. I remember showing him around the new facilities at JCU on one occasion and going to lunch down the street. His wife was present on at least two occasions. My wife-who was a consultant and instrumental in JCU marketing, facilities and matters involving visiting students- joined us on one of the occasions in a nearby piazza, but could not stay beyond a first course. I would have discussed the benefits of a semester in Rome for AU students, and I was especially interested in the possibility of a semester at AU for our Italian and third country students at JCU. Ben Ladner understood the mutually beneficial nature of that for both university students and for the institutions.

In sum, what I can tell you is that I met with Ben Ladner several times these past few years and we discussed university business over food. What I can't give you are dates and details. Having just moved from Rome makes that pinpointing of schedules and dates even more difficult.

Sincerely,  
 James F. Creagan

--- James\_Joseph@aporter.com wrote:

> President Creagan, As discussed in the attached  
 > letter, I am counsel  
 > to the Board of Trustees of American University in  
 > Washington, DC.  
 > am conducting an investigation into certain travel  
 > and personal  
 > expenses of Dr. Benjamin Ladner, the University's  
 > President. I would  
 > appreciate it if you could review the attached

AUSF 009936

> letter and confirm any  
> meetings you may have had with Dr. Ladner, as  
> requested. Thank you  
> very much for taking the time to respond to this  
> inquire. Your prompt  
> attention is appreciated.

>  
>  
> (See attached file: Creagan Letter (086316-1  
> 08\_30\_2005 10\_40\_01  
> AM)\_(DC\_1444598\_1).PDF)

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> For more information about Arnold & Porter LLP,  
> click here:

<http://www.arnoldporter.com>

AUSF 009937

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555 Twelfth Street, NW  
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August 30, 2005

VIA FACSIMILE AND ELECTRONIC MAIL

James Creagan  
President  
John Cabot University  
Via della Lungara, 233  
Rome, Italy 00165

Dear President Creagan:

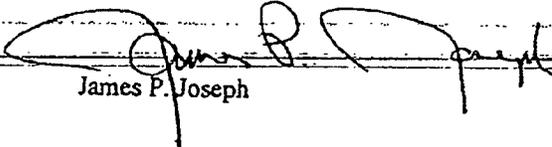
I am counsel to the Board of Trustees of American University in Washington, D.C. I am conducting an investigation on behalf of the Board into certain travel and personal expense reimbursements of Benjamin Ladner. As part of this investigation, I am confirming certain meetings in Dr. Ladner's calendar.

I would appreciate it if you would provide me with details (i.e., date, time and length and location) of meetings, if any, that you have had in Rome with Dr. Ladner since January 2003. In particular, please confirm that you met with Dr. Ladner on Saturday, June 5, 2004, the length of such meeting, location, whether lunch was served and attendees.

If you have any question, please contact me at 202-942-5355 or James\_Joseph@aporter.com. Also, if you want to confirm my status as counsel to the Board, you may contact Leslie Bains, Chair of the Board, at 646-552-3006. Finally, we would appreciate it if you would not discuss this with Dr. Ladner, who has been placed on administrative leave pending completion of the Board's investigation.

Thank you for your cooperation

Sincerely,

  
James P. Joseph

cc: Leslie E. Bains

Washington, DC   New York   London   Brussels   Los Angeles   Century City   Northern Virginia   Denver

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