

# **Whistleblower Investigation Report**

Complainant: Jonathan Park

Filed November 8, 2017

National Council and Pastors' Joint Committee

Submitted to: HSA Board of Directors

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## Summary

- 1) After an extensive review, the Investigation committee has found no evidence of illegal or unethical behavior on the part of Dr. Kim, the HSA Board or members of the HSA staff.
- 2) We found that the HSA Board has not neglected their legal or financial duties and has regularly received proper external legal and financial advice.
- 3) The complaint raised issues of concern to the church membership in the areas of professionalism, communications and representation. We have submitted recommendations in these areas for the Board's review.
- 4) We found no evidence of retaliation against Mr. Park as the result of filing a complaint.

## Investigation Committee Process Overview

Members of the National Council and others received a detailed electronic complaint from Mr. Park on November 8, 2017. In accordance with the Whistleblower Policy, the National Council took steps to form an investigative committee.

On November 29, 2017, the Board of Director instructed President Buessing to commission an investigation of the complaint. President Buessing proposed a Joint Committee consisting of four members of the National Council and four District Pastors, chaired by Noah Ross of the National Council. After debate, this proposal was approved by the National Council on December 4, 2017. The committee is as follows:

- Noah Ross (National Council, Committee Chair)
- David Rendel (District Pastor, Committee Vice-chair)
- Alan Jessen (National Council Chair)
- Sarah Oben (National Council Vice-Chair)
- Terry Yamane (National Council Secretary)
- Kevin Thompson (District 11 Pastor)
- John Jackson (District 9 Pastor)
- Manoj Jacobs (District 3 Pastor)
- Eugene Harnett (National Council)

The First meeting was convened December 9<sup>th</sup>, 2017. Attorney Joe Dunne was retained as an independent advisor to the Committee.

In accordance with the HSA Whistleblower policy, a letter was sent to Dr. Kim asking for a formal response to the complaint. This response was received on January 5, 2018. As stipulated in the Whistleblower Policy, Mr. Park was permitted to submit a counter-response, which was received on February 5, 2018.

The Committee also received numerous and extensive related documents detailing legal agreements, legal opinions, Board meeting minutes and other items. Weekly Committee meetings were held on Zoom to discuss our progress in the investigation.

Following the receipt of documents from Dr. Kim and Mr. Park, the following interviews were conducted:

- Dr. Michael Jenkins
- David Balise
- Marcus Karr
- Farley Jones
- Susan Bouachri
- Jonathan Park
- Alexa Ward
- Dr. Ki Hoon Kim

In all, the investigation included:

- 6 months of commitment
- 20+ Zoom meetings
- 12+ Trips to New York
- Dozens of documents
- 850+ pages of material
- 475+ hours of committee member investment
- A significant legal expense
- Many, many prayers.

## **Objectives for Committee**

The charge for the Whistleblower Committee (hereinafter called "Committee") as outlined in the HSA Whistleblower Policy (WBP) was to:

- 1) Determine whether illegal or unethical practices were verified

- 2) Determine if the Complaint was made in good faith
- 3) Recommend actions if appropriate regarding the Complainant and Respondent
- 4) Recommend policy improvements that could mitigate future issues

## Approach

The Complaint specifically enumerated six allegations. The Committee, in submitting this report, has summarized and detailed our conclusions to each of the charges in two ways: **Factual Findings** as to the merits of the allegations; and **Areas of Concern** regarding matters that have been learned in the discovery process that do not rise to the level of a legal issue but are areas for improvement.

The Committee has also prepared findings and concerns with regard to the question of **Retaliation** and to the **Complaint Process** filed by Mr. Park.

Finally, the Committee proposes a number of **recommendations** for the Board to consider for improvement.

## Complaint Specifics

“Complaint concerning the apparent waste of church funds and assets and concerns of breach and neglect of fiduciary duty by Dr. Ki Hoon Kim, Chairman of the Board of the FFWPU USA and the Vice President of the FFWPU International.”

The six specific complaints are summarized as:

1. Improper and Illegal dealing between Ki Hoon Kim and John LaValley
2. Putting the Church Tax Exemption at risk due to dealings with Disqualified Persons
3. Wasting Church Funds and Assets in regard to operations of the New Yorker Hotel
4. Jeopardizing HSA’s Tax Exemption status by funding losses at the Washington Times
5. Wasting money by Gross Negligence with regard to Tax Planning
6. Changing HSA Bylaws in order to facilitate control of board.

### ***1. Improper and Illegal dealing between Ki Hoon Kim and John LaValley***

#### **Findings**

The Committee found no evidence that Dr. Kim or anyone employed by HSA personally benefited from the East Gate or Thelius contracts. Key HSA executives working with East Gate and Thelius (EGT) were pleased with their performance, and some credit was given Mr. LaValley for facilitating the Landmark declassification for the 43<sup>rd</sup> St property and negotiating a good refinance rate for the New Yorker. Evidence was shown that

compensation paid them was appropriate, given the New York marketplace and the work product that was delivered. In addition, HSA sought and received legal and real estate opinions prior to signing contracts with EGT. This included consulting with the Family Federation International Asset Team.

#### **Concerns**

HSA did not have its own salaried experts for this kind of work, which made us more reliant on outside help like EGT and Thelius. There was acknowledgement that inexperience could have played a part in the breakdown of leasing discussions. Procurement of advisement partners for real estate work was not done competitively.

### ***2. Putting the Church Tax Exemption at risk due to dealings with Disqualified Persons***

#### **Findings**

HSA has been careful to protect their tax-exempt status, obtaining legal opinions before proceeding with Strategic Business Plans where performance fees were triggered. Since the major deals did not materialize and the contracts are now terminated, no large amounts were paid. The legal opinion also determined that the contracts with East Gate did not constitute excess benefit transactions with “non-arms-length” disqualified persons, as charged.

#### **Concerns**

There is room for a more competitive bidding process and the vetting of potential advisors. Having Church relations benefit directly as outside consultants from Asset transactions is problematic, especially for members who sacrificed to buy the Assets.

### ***3. Wasting Church Funds and Assets in regard to operations of the New Yorker Hotel***

#### **Findings**

The New Yorker Hotel is indeed having financial losses, especially in the current market. The Committee found no meaningful or significant dispute about the numbers. Interviews with key executives confirmed that HSA is very aware of this problem and has been seeking solutions for many years to leverage a valuable and providential asset constructively. They have consulted with numerous experts and firms, including John LaValley and Jonathan Park. Hotel losses have been knowingly subsidized by success in other business areas. The Committee found no evidence that Dr. Kim or the HSA Board has been negligent in addressing these issues. Furthermore, Dr. Kim has regularly sought guidance from True Mother in this regard.

## **Concerns**

The underlying issues remain, and decisions on how to address them will not be easy. The hotel industry is having trouble in New York and the union contract complicates matters. As Mr. Park points out, we cannot continue to pay deficits by borrowing from equity. Care must be taken to balance spiritual concerns with practical wisdom to find workable solutions. We face a financial challenge that will require the continued focus of HSA leadership.

### ***4. Jeopardizing HSA's Tax Exemption status by funding losses at the Washington Times***

#### **Findings**

HSA was tasked with supporting the Washington Times for religious and strategic purposes in 2010 at the direction of True Parents, even though it has been a financial drain. The Board has sought and received regular legal opinions as to whether or not ownership of the Times endangers the tax-exempt status of the church. According to legal counsel, for the near term it does not. The Committee found no evidence that Dr. Kim or the HSA Board have been negligent in recognizing and working to address these issues.

#### **Concerns**

The attorney memos received annually by HSA indicate that there may be long-term tax concerns in keeping the Times as part of HSA and that the current ownership structure may not make sense in the long run.

### ***5. Wasting money by Gross Negligence with regard to Tax Planning***

#### **Findings**

An independent CPA firm conducts annual audits of the Financial Statements for both the Church (HSA) and the business units within Operations Holdings. This firm is itself audited regularly by state authorities for compliance. Tax Planning and guarding the tax-exempt status has been their primary concern. The financial team at HSA has consulted with tax and legal advisors in attempts to manage their overall tax liabilities. For the New Yorker, there are numerous tax strategies in place to take advantage of tax rules. The Committee found no evidence that Dr. Kim or the HSA Board has been negligent in recognizing and working to address these issues.

#### **Concerns**

Tax planning is a complicated area that will require continued focus and effort to find potential improvements that may be able to reduce the tax burdens.

## **6. Changing HSA Bylaws in order to facilitate control of board.**

### **Findings**

The committee spoke to four Board members, including the chairman. A subcommittee of the Board was formed in November 2016 to propose amendments to update the HSA Bylaws in a handful of specific areas that had been under discussion for years. These changes are still in committee and have not yet been brought to the Board, although it was scheduled for the November, 2017 meeting.

### **Concerns**

The effective and stable operation of the Board in the future is increasingly important for the success of the organization and is a concern to the church as a whole.

## **Retaliation**

### **Findings**

The Committee found no evidence that Mr. Park lodged any written complaint of illegal or unethical activities by HSA or Dr. Kim prior to being informed that he was reassigned by True Mother on October 10, 2017. Mr. Park was asked to resign from the Board on November 3, 2017, prior to making his official Whistleblower Complaint on November 8<sup>th</sup>. His removal from the Board on Nov. 29<sup>th</sup> was based on his inability to accept True Mother's direction and his breach of confidentiality. Mr. Park had signed a Confidentiality Agreement in September 2016 prior to openly circulating his letter on October 10<sup>th</sup> and his WB Complaint on November 8<sup>th</sup>, in violation of that Agreement. For these reasons, the Committee does not find the removal of Mr. Park to be an act of retaliation.

### **Concerns**

Given the tone and public nature of Mr. Park's Complaint, it is hard to imagine how he could continue as a board member or employee.

## **Complaint Process**

### **Findings**

The Whistleblower Policy requires that complaints be submitted in a written form to a supervisor or the HR Director. (WBP Article IV.1-2). In this case it was submitted directly to the National Council and other parties. Therefore, no formal effort was made to resolve the Complainant's allegation through an internal process. As noted, the Complaint was not kept confidential and although this was not specifically prohibited by the WBP, it is a violation of HSA Employee Policies since the complaint included confidential information. (WBP Article VII).

Mr. Park does not dispute that he violated his Confidentiality Agreement with HSA or that he was asked by True Mother to leave his position. By his own admission, he consciously chose to go public with his allegations against Dr. Kim and HSA. Additionally, the Committee finds that Mr. Park's issues with International HQ began before coming to the USA and becoming an HSA employee and Board member.

The committee makes no determination as to whether the Complainant acted in good faith or not. However, since no legal or policy violation was found, and today there is no dispute as to the confidentiality violations, HSA is within its right to terminate Mr. Park if it so chooses.

### **Concerns**

Mr. Park's actions may have damaged the perception of our church and its leaders; our concern is how to restore trust going forward. Mr. Park felt he had no other way than to "go public" to resolve his concerns. We need a better way to diffuse such situations. Mr. Park is devoted to True Parents and our church. He is our brother and he has provided valuable service to True Parents in the past and his appointment was met with warm reception by Board members with whom the Committee met. It is desirable to find a way to bring some kind of reconciliation. Still, the Committee finds that Dr. Kim and the HSA Board have been accused of serious, unfounded legal charges.

\* Recommendations on Governance were also provided with this report by the Investigative Committee. The Board of Directors will further discuss and evaluate these recommendations.