

Annette Headley

From: Anthony Bieda
Sent: Wednesday, February 25, 2015 6:01 AM
To: Quentin Dean
Subject: FW: MJI Response to adverse information
Attachments: MJI response final.pdf

FYI.

Anthony S. Bieda

Vice President for External Affairs

Accrediting Council for Independent Colleges and Schools

750 First Street, NE | Suite 980 | Washington, DC 20002

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From: Steve Chema [<mailto:stchema@ritzert-leyton.com>]
Sent: Tuesday, February 24, 2015 4:32 PM
To: Anthony Bieda
Cc: Peter Leyton; kshemtov@mji.edu; fleeb@mji.edu; jfrank@jackiergould.com
Subject: MJI Response to adverse information

Dear Tony:

Attached is MJI's response to the Feb. 3 adverse information letter. A hardcopy of this response will follow via U.S. mail.

best regards,
Steve Chema

Annette Headley

From: Anthony Bieda
Sent: Wednesday, February 25, 2015 6:06 AM
To: Quentin Dean
Subject: FW: MJJ Response to adverse information

FYI; we should track our request for an update by March 27; the litigation should have progressed by then.

Anthony S. Bieda
Vice President for External Affairs
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From: Anthony Bieda
Sent: Wednesday, February 25, 2015 6:01 AM
To: 'Steve Chema'
Cc: Peter Leyton; [kshemtov@\(b\)\(6\)](mailto:kshemtov@(b)(6)) [fleeb@\(b\)\(6\)](mailto:fleeb@(b)(6)) [jfrank@\(b\)\(6\)](mailto:jfrank@(b)(6))
Subject: RE: MJJ Response to adverse information

Thank you Steve. Please keep the Council informed as the litigation moves through its process; a brief update before the April Council meeting would be helpful; whatever additional information MJJ can provide by **Friday March 27 will** be material to the Council's considerations.

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From: Steve Chema [[mailto:stchema@\(b\)\(6\)](mailto:stchema@(b)(6))]
Sent: Tuesday, February 24, 2015 4:32 PM
To: Anthony Bieda
Cc: Peter Leyton; [kshemtov@\(b\)\(6\)](mailto:kshemtov@(b)(6)) [fleeb@\(b\)\(6\)](mailto:fleeb@(b)(6)) [jfrank@\(b\)\(6\)](mailto:jfrank@(b)(6))
Subject: MJJ Response to adverse information

Dear Tony:

Attached is MJJ's response to the Feb. 3 adverse information letter. A hardcopy of this response will follow via U.S. mail.

best regards,
Steve Chema

Annette Headley

From: Anthony Bieda
Sent: Wednesday, July 08, 2015 9:44 AM
To: Quentin Dean
Subject: FW: Michigan Jewish Institute-Binder-Adverse

For the update in the BPC agenda for August; also please prepare the standard "closing of adverse" letter for me to sign. Thanks!

Anthony S. Bieda
Vice President for External Affairs
Accrediting Council for Independent Colleges and Schools
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From: Peter Leyton [[\(b\)\(6\)](mailto:PLeyton@(b)(6))]
Sent: Tuesday, July 07, 2015 6:10 PM
To: Anthony Bieda
Cc: "Kasriel Shemtov" ([\(b\)\(6\)](mailto:kshemtov@(b)(6))); Fred Leeb
Subject: RE: Michigan Jewish Institute-Binder-Adverse

Dear Tony,

This is to advise the Council on behalf of Michigan Jewish Institute that the action brought against MJJ by Richard Binder in the Circuit Court for Oakland County, Michigan, Case No. 2014-144740-CD, has been dismissed by Judge Bowman. Mr. Binder's time to appeal the decision has also expired. Accordingly, MJJ respectfully requests that the adverse information opened by the Council with respect to Mr. Binder's action be closed.

Respectfully yours,

Peter.

Peter S. Leyton
Ritzert & Leyton, P.C.
11350 Random Hills Road, Suite 400
Fairfax, VA 22030
703-934-2660 (main)
703-934-(b)(6) (direct)
703-934-9840 (fax)
(b)(6) (cell)
www.ritzert-leyton.com

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Annette Headley

From: Anthony Bieda
Sent: Wednesday, December 02, 2015 3:02 PM
To: Quentin Dean
Subject: FW: Michigan Jewish Institute (ACICS ID Code 00015775)

FYI.

Anthony S. Bieda
Vice President for External Affairs
Accrediting Council for Independent Colleges and Schools
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From: Steve Chema [mailto:stchema@(b)(6)]
Sent: Friday, November 27, 2015 4:18 PM
To: Anthony Bieda
Cc: Fred Leeb; Peter Leyton; Kasriel Shemtov
Subject: Michigan Jewish Institute (ACICS ID Code 00015775)

Dear Mr. Bieda:

This email responds to your letter dated November 16, 2015 to Michigan Jewish Institute ("MJl") which requests an update on the July 2015 Office of Inspector General ("OIG") visit to MJl as well as an update on the status of MJl's transition to heightened cash monitoring level-two ("HCM2") and any other conditions imposed by the Department of Education ("ED") on MJl's participation in federal student aid programs.

Regarding the OIG visit, since MJl last updated the Council on this matter, MJl and its representatives have had no substantive interaction with OIG or any other federal agency regarding the status of OIG's review. However, since that time, MJl has been in contact with OIG for the limited purpose of obtaining certain records that were taken off site during the July visit. Beyond making arrangements to obtain copies of those documents, MJl has not had any conversation with OIG about OIG's review, nor has MJl received any additional requests for information or documents from OIG.

Meanwhile, MJl's transition to HCM2 continues to be an ongoing process. As noted in MJl's August 5, 2015 letter to the Council, the school has engaged FAME to help it prepare and review its reimbursement requests. At the present time, MJl and FAME working together have prepared several hundred individual student files for submission to ED. Based on its progress to-date, MJl expects to be able to send a significant reimbursement request to ED's HCM2 payment analysts in the next 2-3 weeks. MJl has also sent a test file to ED Payment Analyst, Mark Kreutzer, in order to obtain additional feedback and insight on the HCM2

process. Mr. Kreutzer has responded to MJJ that its test file was complete and in order. Based on this feedback and the positive experiences MJJ has had working with FAME thus far, MJJ is confident that the imminent reimbursement request will be tendered to ED in a condition that will allow ED to efficiently and promptly process payment to MJJ in the ordinary course of the HCM2 process. Finally, MJJ can confirm that ED has placed no new or additional conditions on MJJ's participation in federal student aid programs, since the change in payment methods to HCM2 was announced.

MJJ also wishes to inform the Council that it has secured a financing commitment from a third party lender that will ensure MJJ has sufficient cash flow to meet its current financial obligations until ED begins to make payments to MJJ pursuant to its reimbursement requests.

Should you require any further information, please contact me at 703-934-(b)(6) or at [\(b\)\(6\)](mailto:stchema@(b)(6)) or contact MJJ's COO, Fred Leeb at [\(b\)\(6\)](mailto:fredleeb@(b)(6)) or 248-414-6900

Sincerely,
Stephen T. Chema II, Esq.
Ritzert & Leyton, PC
11350 Random Hills Road, Suite 400
Fairfax, VA 22030
(703)934-(b)(6) (voice)
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Recent Practice Area News. Webinar: A Current Look at Title IX and Sexual Violence in the College Setting. On Thursday, November 13, 2014, R&L Attorneys Steve Chema ...

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July 10, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

Thank you for notifying the Council that the lawsuit against Michigan Jewish Institute by Richard Binder in the Circuit Court for Oakland County, Michigan, Case No. 2014-144740-CD, has been dismissed by Judge Bowman. Based on this review, there is no evidence that the institution is not in compliance with the standards set forth in the *Accreditation Criteria*. Therefore, unless additional information and documentation is received, this matter is considered closed.

Please keep in mind, however, that this matter has been made a part of the institution's permanent file. This material and all other information accumulated through the accreditation process will be reviewed by the Council when considering a new grant of accreditation for the institution.

If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)](mailto:abieda@(b)(6))

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



July 10, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

Thank you for notifying the Council that the lawsuit against Michigan Jewish Institute by Richard Binder in the Circuit Court for Oakland County, Michigan, Case No. 2014-144740-CD, has been dismissed by Judge Bowman. Based on this review, there is no evidence that the institution is not in compliance with the standards set forth in the *Accreditation Criteria*. Therefore, unless additional information and documentation is received, this matter is considered closed.

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If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)](mailto:abieda@(b)(6))

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



February 29, 2016

ID Code 00015775

VIA CERTIFIED MAIL AND E-MAIL

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Subject: Response to Adverse Information and Show-Cause Directive

Dear Rabbi Shemtov:

While ACICS does not participate in student lending decisions or administration, as a condition of its recognition as a reliable authority on institutional quality and integrity the U.S. Department of Education expects ACICS to be vigilant and attentive to the management of Federal Student Aid resources by member institutions. In turn, ACICS expects institutions serving students under its grant of accreditation to operate with utmost integrity and diligence in all matters. The expectations are more prescriptive and consequential when the institution is participating in federal student financial aid programs and disbursements:

3-1-434. Administration of Student Financial Aid. Participation in state or federal student financial aid programs requires serious administrative responsibility. The Council expects all institutions participating in such programs to be knowledgeable of and in compliance with applicable laws and regulations.

Furthermore, the evaluation of institutional quality and integrity through accreditation depends greatly on a trust relationship between ACICS and the institutions it accredits, including all information that is encountered or provided:

3-1-202. Integrity. The integrity of an institution is manifested by the professional competence, experience, personal responsibility, and ethical practices demonstrated by all individuals comprising the ownership, control, or management.

(a) Emphasis shall be placed upon the efficiency and effectiveness of the overall administration of the institution. Attention shall be given to educational activities, admissions, student financial aid, financial operations, plant and equipment, student services, and compliance with applicable local, state, and federal laws. The degree of institutional compliance with the criteria in these areas is a measure of the administrative capability of the chief on-site administrator of a main campus or branch campus.

The Council clearly expects that institutions operating while accredited by ACICS demonstrate appropriate levels of administrative capacity, including fulfilling the duty to create and maintain adequate records:

3-1-303. Records. Careful recordkeeping is crucial to the smooth day-to-day operation of an institution. The data from these records are important to the institution for future planning, to students for informational purposes, and to evaluation teams during school visits. All such records should be maintained at each institutional site or shall be available at each site during evaluation visits. The Council expects at least the following:

(a) Adequate records shall be kept by each institution relative to administrative operations. These include financial aid activities, admissions, curriculum, accreditation and licensure, guidance, instructional resources, supplies and equipment, school plant, faculty and staff, student activities, and student personnel.

(e) A permanent academic record (transcript) of the student's progress shall be maintained. Compatible with the institution's mission, the transcript shall indicate student accomplishment in terms of clock hours, units of credit, or some other recognized system. The grading system used shall be fully explained on the transcript and must be consistent with that appearing in the institutional catalog.

(f) All basic records and reports pertaining to students shall be safely protected. Acceptable methods of protecting records from theft, fire, water damage, or other possible loss include appropriately fire-rated file cabinets (that can be and are locked when not being used); a central location such as a vault, the entirety of which is protected; and microfilmed records, computer disk, backup tape, printout records, or other hard copies of records protectively stored off the premises.

When ACICS receives information from a reliable third-party regarding the institution's apparent violation of Council standards, it has the authority to investigate the adverse information and take action:

2-3-700 – Complaints and Adverse Information. ACICS receives and is obligated to investigate legitimate complaints about an institution from any source, that in any way pertain to ACICS criteria. Also, ACICS periodically receives and may investigate information from federal or state agencies or other accrediting agencies, or through public media sources, which may indicate possible criteria violations.

2-2-303. Teach-out. The Council may direct a currently accredited institution to provide a school closure plan or a formal teach-out agreement in response to adverse information ... financial instability, or other concerns that may call into question the institution's ability to continue to serve the educational needs and objectives of its students or to continue as an on-going concern.

The Council has been notified that Michigan Jewish Institute's certification to participate in Federal Student Aid programs has been denied by the U.S. Department of Education. The basis for the denial includes that MJI provided false information to ACICS; that MJI failed to exercise adequate safeguards of administrative capacity; and that MJI breached its fiduciary duty to the Department.

Based on the information received from the Department, the Council requires MJI to provide the following no later than March 19, 2016:

1. Explanations for the provisioning by MJI of false information to ACICS; the failure of MJI to adequately safeguard the institution's administrative capacity as required by ACICS standards and Department program participation regulations; and the breach of MJI's duty as a fiduciary regarding the management of federal student aid programs and resources.
2. A teach-out plan for review and approval by the Council that describes how MJI plans to provide for the continuation and completion of every student currently enrolled in accredited programs be they online or in-person.

Show-Cause Directive

Finally, pursuant to Section 2-3-230 of the *Accreditation Criteria*, the Council acted to direct MJI to show cause at the April 2016 meeting of the Council why its current grant of accreditation should not be withdrawn by way of suspension, or otherwise conditioned. Specifically, the Council is concerned that MJI is not in compliance with Sections 3-1-200, 3-1-202, 3-1-303, and 3-1-434 of the Accreditation Criteria. The Council also requires evidence of the institution's financial stability with the discontinuance of participation in federal student financial aid (Title IV) programs.

You must notify the Council office in writing within ten days of receipt of this notice whether you desire a personal appearance before the Council at its next meeting scheduled for April 2016, or whether you will respond to the show-cause directive in writing. There is a \$5,000 fee for personal appearances before the Council and a \$2,000 fee to respond to the show cause directive in writing. The appropriate fee is due within ten days of receipt of this notice.

If you choose to appear in person or in writing, please submit eight copies of your response, (information in addition to that listed above that you wish the Council to consider), via compact disk or thumb drive by March 19, 2016. Failure to provide all information requested within the established deadline will result in a \$500 late fee and may result in suspension of accreditation.

Your immediate attention to this matter is mandatory. If you have any questions, please contact me at (202) 336-6778 or Anthony S. Bieda, Vice president for External Affairs at abieda@acics.org.

Sincerely,

Albert C. Gray, Ph.D.
President and CEO

Cc: Mr. Herman Bounds, Ed.S., Director, Accreditation and State Liaison Division, U.S.
Department of Education
Susan D. Crim, Director, Administrative Actions and Appeals Service Group, U.S.
Department of Education
Michael Beamish, Licensing Manager, Michigan Department of Licensing and Regulatory
Affairs
Joseph E. Gurubatham, Ed.D., Executive Vice President of Accreditation and Institutional
Development, ACICS
Mr. Anthony S. Bieda, Vice President of External Affairs, ACICS
Ms. Susan Greer, Vice President of Accreditation and Institutional Development, ACICS



November 16, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

This is a request for updated information regarding the visit by the Office of Inspector General of the U.S. Department of Education to the Michigan Jewish Institute (MJJ) in July 2015. Specifically, the Council requires information regarding MJJ's conversion to HCM2 status with the Federal Student Aid division of the U.S. Department of Education, including the institution's ability to manage lagging cash flow, and any other conditions placed on the institution by the Department.

Please provide the Council with an update regarding this issue by **November 27, 2015**. Until this matter is resolved, please continue to provide information to the Council as it becomes available.

Your immediate attention to this matter is appreciated. If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)](mailto:abieda@(b)(6))

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



Thursday, July 09, 2015

Dear Partner,

On July 7, the U.S. government sent representatives to our Michigan office to collect documents. The MJI staff in Michigan have cooperated fully in every way. The MJI attorneys are involved in this process. Everything is continuing as normal, including disbursement of student checks, 2015-16 admissions, and new program development.

Over the years MJI has provided educational and career opportunities for thousands of students—an achievement that brings us great satisfaction. MJI continues to work and operate as usual, and remains committed to its students, who rely on the Institute. We appreciate the dedication of our nearly 100 faculty and staff who are focused on our students.

Naturally, we will do our best to keep you, our partners, informed of any developments. Our students and the partnership between us is our top priority.

In addition please stay tuned about our new upcoming program for woman which will be announced shortly.

May we merit seeing the complete redemption, speedily in our days.

If you have any questions please don't hesitate to contact me,

248-388-(b)(6)

(b)(6)

Rabbi Yudi Mann

Michigan Jewish Institute

6890 West Maple Road, West Bloomfield, Michigan 48322

Telephone: (248) 414-6900 - Facsimile: (248) 414-6907

יום חמישי כ"ב תמוז תשע"ה

שלום רב,

בשביעי ליולי הממשלה האמריקאית שלחה נציגים למשרדי MJl לאסוף מסמכים. MJl בארה"ב משתפים פעולה בכל עניין. עורכי הדין של MJl מלווים אותנו בתהליך הזה. הכל ממשיך כרגיל, כולל תשלום מלגות לתלמידים, הרשמה לתשע"ו, ופיתוח תוכניות חדשות.

לאורך שנים MJl מספקת אפשרויות למידה ותעסוקה לאלפי תלמידים, הישגים אשר מרוויח אותנו נחת. MJl ממשיכה לעבוד ולפעול כרגיל ונשארת מסורה ונאמנה לתלמידיה אשר סומכים עליה. אנו מעריכים את המסירות של כמאה עובדים אשר משקיעים בתלמידים.

כמובן שנעשה כמיטב יכולתנו לעדכן אתכם, השותפים שלנו, בכל התפתחות. התלמידות שלנו והשותפות בינינו בראש מעיינינו.

בנוסף בזמן הקרוב נכריז אודות התוכנית החדשה לנשים פרטים בקרוב.

יהי רצון שנזכה לגאולה השלימה במהרה בימינו,

בכל שאלה אל תהססו לפנות אלי, אשמח להשיב בכל עניין במספר

248-388-(b)(6)

(b)(6)

הרב יהודה מאן

Michigan Jewish Institute

6890 West Maple Road, West Bloomfield, Michigan 48322

Telephone: (248) 414-6900 - Facsimile: (248) 414-6907

ED00012135



July 24, 2015



Anthony Bieda
Vice President for External Affairs
Accrediting Council for Independent Colleges and Schools
750 First Street, NE Ste. 980
Washington DC, 20002-4223

Dear Mr. Bieda,

This letter responds to your letter to MJI of July 10, 2015 requesting information in follow up to the visit by agents of the Department's Office of Inspector General on July 7, 2015. Our response follows:

Question 1: With respect to students enrolled at MJI through the online platform, these students have and continue to be able to access instructional services, including interaction with faculty and student services without interruption through our online learning management system (Sakai). The Sakai LMS is hosted by a third party service with backup installations. The agents request for records made clear that they were not to interrupt or adversely affect normal operations and they did not, other than the day they were on site. All relevant information for currently enrolled students are on our servers or in the cloud and as noted already, student studies have not been interrupted or adversely affected by the visit.

Question 2: For all other students, the visit has not substantially diminished or prevented MJI from continuing to provide instructional or student services. All services have continued without interruption. Generally, all student documentation already had been scanned and is in our campus management system or is on our servers.

Question 3: All MJI faculty and staff have been informed of the events by senior management through all-staff meetings either in person or by video conference on July 8th or July 14th. Students have been informed of our position and operational plans if they have made inquiries. As you know, there has been some publicity about the event yet few students have made inquiries. Further, a written statement has been provided to our host schools. Please see attached statements.

Question 4: The Department of Education has transferred MJI to the HCM2 payment process. HCM2 requires the institution to credit a student's account before seeking reimbursement from the Department. MJI is in the process of learning the procedure it will be following for funding and is developing a model submission. From this MJI will put together a full submission shortly. MJIs financial resources and reserves are excellent. For example, MJI has cash in the bank of about \$2.4 million and is current on all accounts payable and debts. We fully expect to be able to manage these changes including the initial effect on cash flow.

Please call me at 248-514-(b)(6) or email me at [\(b\)\(6\)](mailto:FredLeeb@(b)(6)) if you have any questions or comments.

Sincerely,

(b)(6)

Fred Leeb



Leeb, Fred <fredleeb@(b)(6)>

Fwd: MICHIGAN JEWISH INSTITUTE

1 message

Wendy Fayne <wendy@(b)(6)>
To: Fred Leeb <fredleeb@(b)(6)>

Fri, Jul 24, 2015 at 2:36 PM

PLEASE NOTE NEW EMAIL ADDRESS:
wendy@wendyfayne.com

Begin forwarded message:

From: Mort Meisner <mort@mortmeisner.com>
Date: July 14, 2015 at 11:02:26 AM EDT
To: berger@forward.com
Subject: MICHIGAN JEWISH INSTITUTE

Mr. Berger,

This is our statement regarding the matter you have inquired about.
Please feel free to call me at 248-545-(b)(6) with any questions.

Thanks,

Mort

Michigan Jewish Institute is cooperating fully with the federal investigation as it has with all audits and reviews. Our educational operations continue without interruption. Our highest priority remains to serve the thousands of students who rely on the Institute and we appreciate the dedication of our nearly 100 faculty and staff who are focused on our students and on achieving our mission. We are and have always been committed to operating in compliance with the law and we strive to achieve the highest standards of education. At this time, we have no further comment.

 winmail.dat
18K



July 10, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

When ACICS is made aware of information of an adverse nature regarding a member institution, the Council has the authority to require the institution to provide information regarding the matter and to keep the Council informed as circumstances change.

Recently, the facilities of Michigan Jewish Institute (MJII) were visited by agents of the Office of Inspector General of the U.S. Department of Education. Information provided through public sources is ambiguous regarding the purpose of the visit, the extent to which it disrupted or continues to disrupt education programs at the institution, and the basis for the visit, as provided to the institution by the Department.

To better inform the Council's review of this matter, please provide information to answer the following questions:

1. For students enrolled at MJII who are receiving instructional services through the on-line platform, are they able to continue to access instructional services, including interaction with faculty and student services?
2. For all other students, has the visit by the OIG substantially diminished or prevented MJII from continuing to provide instructional and student services?
3. What information about the OIG visit has been shared with students, faculty and staff, when and through what media?
4. Has MJII received notification by the Department of any change in its status regarding participation in the Federal Student Aid (Title IV) programs? If so, how has that status changed?

The Council expects a written response to this inquiry no later than C.O.B. Wednesday, July 22, 2015. Your prompt attention to this inquiry is appreciated.

If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)">abieda@\(b\)\(6\)](mailto:abieda@<span style=)

Sincerely, *ASB*

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



July 10, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

When ACICS is made aware of information of an adverse nature regarding a member institution, the Council has the authority to require the institution to provide information regarding the matter and to keep the Council informed as circumstances change.

Recently, the facilities of Michigan Jewish Institute (MJII) were visited by agents of the Office of Inspector General of the U.S. Department of Education. Information provided through public sources is ambiguous regarding the purpose of the visit, the extent to which it disrupted or continues to disrupt education programs at the institution, and the basis for the visit, as provided to the institution by the Department.

To better inform the Council's review of this matter, please provide information to answer the following questions:

1. For students enrolled at MJII who are receiving instructional services through the on-line platform, are they able to continue to access instructional services, including interaction with faculty and student services?
2. For all other students, has the visit by the OIG substantially diminished or prevented MJII from continuing to provide instructional and student services?
3. What information about the OIG visit has been shared with students, faculty and staff, when and through what media?
4. Has MJII received notification by the Department of any change in its status regarding participation in the Federal Student Aid (Title IV) programs? If so, how has that status changed?

The Council expects a written response to this inquiry no later than C.O.B. Wednesday, July 22, 2015. Your prompt attention to this inquiry is appreciated.

If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)">abieda@\(b\)\(6\)](mailto:abieda@<span style=)

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



July 10, 2015

ID Code 00015775

VIA E-MAIL ONLY

Rabbi Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

Thank you for notifying the Council that the lawsuit against Michigan Jewish Institute by Richard Binder in the Circuit Court for Oakland County, Michigan, Case No. 2014-144740-CD, has been dismissed by Judge Bowman. Based on this review, there is no evidence that the institution is not in compliance with the standards set forth in the *Accreditation Criteria*. Therefore, unless additional information and documentation is received, this matter is considered closed.

Please keep in mind, however, that this matter has been made a part of the institution's permanent file. This material and all other information accumulated through the accreditation process will be reviewed by the Council when considering a new grant of accreditation for the institution.

If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)](mailto:abieda@(b)(6))

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

Cc: Peter S. Leyton, Ritzert & Leyton, P.C.



June 30, 2015

ID Code 00015775

VIA E-MAIL ONLY

Mr. Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Rabbi Shemtov:

This letter is a request for updated information regarding the lawsuit against Michigan Jewish Institute (MJJ), West Bloomfield, MI, brought by Mr. Richard Neal Binder in the Circuit Court for the County of Oakland, MI (Case 2014-144740-CD.)

Please provide the Council with an update by **July 10, 2015**. Until this matter is resolved, please continue to provide information to the Council as it becomes available.

If you have any questions, please contact me at (202) 336-(b)(6) or abieda@(b)(6)

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President of External Affairs

Stephen T. Chema
Also admitted to practice in Maryland
and the District of Columbia

R&L Ritzert Leyton PC

703-934-9835 Direct
stchema@ritzert-leyton.com

ATTORNEYS AT LAW
11350 Random Hills Road Suite 400 Fairfax, Virginia 22030
703.934.2660 MAIN 703.934.9840 FAX www.ritzert-leyton.com

February 24, 2015

Via email to abieda@(b)(6)
And US Mail, First Class

Mr. Anthony S. Bieda
Vice President for External Affairs
Accrediting Council for Independent Colleges and Schools
750 First Street, NE
Suite 980
Washington, DC 20002-4223

RE: Michigan Jewish Institute (ID Code 00015775) – Response to Adverse Information

Dear Mr. Bieda:

As you know, Ritzert and Leyton represents Michigan Jewish Institute (“MJl”) regarding accreditation matters. Our client asked us to provide the Council with a response to your letter dated February 3, 2015 regarding the Council’s request for information in connection with a lawsuit filed against MJl in the Circuit Court of Oakland County, Michigan.

The lawsuit, styled *Richard Neal Binder v. The Shul, Congregation Bais Chinuch, The Michigan Jewish Institute, Chabad Lubavitch of Michigan, and Rabbi Kasriel Shemtov, et al.*, remains ongoing. MJl and the other named defendants (“Defendants”) intend to vigorously defend themselves against the allegations made by the Plaintiff, a former employee of The Shul. The Defendants collectively filed a motion to dismiss Mr. Binder’s complaint on January 5, 2015. A copy of the Defendants’ motion to dismiss is attached to this letter. However, on February 19, 2015, Judge Leo Bowman issued an order allowing the Plaintiff to amend his complaint. Mr. Binder has not yet served MJl with his amended complaint. He must do so by February 26, 2015. Once served, MJl and the other Defendants shall have 21 days to respond to the amended complaint by filing an answer or other responsive pleading, such as a new motion to dismiss.

Given the circumstances surrounding the procedural developments described above, MJl must be circumspect in commenting on pending litigation. Further, the vague allegations contained in the Plaintiff’s complaint lack critical details such as the “who, what, where, why, or when” hampering MJl’s ability to rebut Plaintiff’s claims with

specific factual information.¹ Nevertheless, MJJ denies ever undertaking any efforts to deceive or mislead representatives of the United States Department of Education or any other body.

To reiterate, MJJ will continue to vigorously defend itself against the allegations made by the Plaintiff. It is MJJ's opinion that the Plaintiff, a disgruntled former employee of one of MJJ's affiliates, has filed this suit for purely economic motives and that his allegations are without merit or any basis in fact. As the litigation proceeds, MJJ will remain cognizant of its obligation to update the Council on this matter as events warrant.

Sincerely,

(b)(6)

Stephen T. Chema II

CC: Peter S. Leyton, Esq.
Jonathan Frank, Esq.
Kasriel Shemtov

¹ The February 3, 2015 letter specifically referenced the following allegation: "that MJJ perpetrated in statements to the Department of Education regarding an elaborate staging - to give appearance of a University ... in anticipation of scheduled audits." (internal quotations omitted). MJJ is unclear exactly what Plaintiff is attempting to say with respect to the quoted language. The meaning or import of the motive attributed to MJJ "to give the appearance of a University" is inscrutable on its face. MJJ is a Michigan non-profit educational corporation established under the Michigan General Corporation Act of 1931, which grants MJJ the legal authorization to call itself a "university". Despite this fact, MJJ does not use the word "university" in its name or otherwise hold itself out to be a university because the commonly understood definition of that term implies that both undergraduate and graduate programs are offered. As the Council is also aware, MJJ has continuously offered educational programming at the undergraduate level since its founding in 1994. Whether this allegation is meant to spuriously suggest that MJJ ceased operating or that it was holding itself out as a "university", or some alternate possibility is known only to the Plaintiff at this stage of the litigation.

R&L

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

RICHARD NEAL BINDER,

Plaintiff,

vs.

Case No. 2014-144740-CD
Hon. Leo Bowman

THE SHUL, CONGREGATION BAIS CHINUCH,
THE MICHIGAN JEWISH INSTITUTE (MJ), and
CHABAD LUBAVITCH OF MICHIGAN, and
RABBI KASRIEL SHEMTOV, et al.,

Defendants.

Richard Neal Binder, In Pro Per
24562 Rensselaer Street
Oak Park, MI 48237
(248) 808-0077

Jonathan B. Frank, P.C.
By: Jonathan B. Frank (P42656)
Attorney for Defendants
121 W. Long Lake Road, Suite 200
Bloomfield Hills, MI 48304
(248) 642 0500

DEFENDANTS' MOTION FOR SUMMARY DISPOSITION
UNDER MCR 2.116(C)(8) AND FOR SANCTIONS, OR FOR BOND,
BRIEF IN SUPPORT, NOTICE OF HEARING,
PROOF OF SERVICE

February 4, 2015 at 9:30 a.m.

This motion under MCR 2.116(C)(8) shall be heard on ~~January 28, 2015 at 9:30 a.m.~~

a date to be set by the Court.

VK

1. THE COMPLAINT FAILS TO STATE A CLAIM

The complaint states one count for violation of the Michigan Whistleblowers' Protection Act ("WPA"). MCL 15.361 et seq. But the complaint is missing an essential allegation: that Mr. Binder either had reported or was about to report a violation or suspected violation to a public body. Without that allegation, the complaint fails to state a claim. The fact that Mr. Binder is representing himself is not an excuse for this obvious flaw.

FEE

The WPA prohibits an employer from retaliating against an employee for engaging in certain protected activities. *Whitman v City of Burton*, 493 Mich 303, 305; 831 NW2d 223 (2013). To establish a prima facie case under the WPA, a plaintiff must show that "(1) he was engaged in protected activity as defined by the act, (2) the defendant discharged him, and (3) a causal connection exists between the protected activity and the discharge." *Chandler v Dowell Schlumberger Inc*, 456 Mich 395, 399; 572 NW2d 210 (1998).

The relevant provision of the WPA (MCL 15.362) provides:

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, **reports or is about to report**, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action. (emphasis added)

An "employee seeking protection under the 'about to report' language of the act [must] prove his intent by clear and convincing evidence." *Chandler v Dowell Schlumberger Inc*, 456 Mich 395, 400, 572 NW2d 210 (1998); MCL 15.363(4). The employer also is entitled "to objective notice of a report or a threat to report by the whistleblower." *Roulston v Tendercare (Mich), Inc*, 239 Mich App 270, 279, 608 NW2d 525 (2000) (quotation marks and citations omitted).

Here, the complaint does not allege an actual report. Therefore, Mr. Binder must be relying on the "about to report" language. But he does not allege anything specific that would meet the requirements of the statute. He does not allege what he was about to report, to whom he was about to report, or whom he told that he was about to report. At most, he alleges only that he had some "concern." Complaint, ¶12.

Mr. Binder's case is thus similar to *Hays v Lutheran Social Services of Michigan*, 300 Mich App 54; 832 NW2d 433 (2013)(Exhibit A). In that case, the Court ordered summary disposition in favor of the defendant because the plaintiff could not establish that she was "about to report" any alleged violation. The Court looked for objective evidence and found none. Here, Mr. Binder does not allege facts sufficient to support his claim.

Further, the complaint does not identify his employer, which is only The Shul. Rather, Mr. Binder sues a group of entities and an individual. But under the WPA, only the employer can be liable. MCL 15.362 ("An employer shall not..."). Mr. Binder therefore has failed to state a claim against Congregation Bais Chinuch, the Michigan Jewish Institute, Chabad Lubavitch of Michigan, and Rabbi Kasriel Shemtov.

Defendants therefore ask that the complaint be dismissed.

2. THE COURT SHOULD AWARD SANCTIONS

Defendants also request sanctions under MCR 2.114. The purpose of imposing sanctions under MCR 2.114 is to deter parties and attorneys from filing documents or asserting claims and defenses that have not been sufficiently investigated and researched or which are intended to serve an improper purpose. *FMB-First Michigan Bank v Bailey*, 232 Mich App 711, 719; 591 NW2d 676 (1998). Whether the inquiry was reasonable is determined by an objective review of the effort taken to investigate the claim before filing suit. *Attorney Gen v Harkins*, 257 Mich App 564, 576; 669 NW2d 296 (2003). The determination whether a claim is frivolous must be based on the circumstances at the time the claim was asserted. *Jericho Constr, Inc v Quadrants, Inc.*, 257 Mich App 22, 36; 666 NW2d 310 (2003); *In re Costs and Attorney Fees*, 250 Mich App 89; 645 NW2d 697 (2002); *Dillon v DeNooyer Chevrolet Geo*, 217 Mich App 163, 169; 550

NW2d 846 (1996). It is clear from the language of MCR 2.114(B), (D), and (E) that sanctions may be imposed upon unrepresented parties who sign their own pleadings.

As discussed above, there is no good faith basis for the complaint. Further, the complaint was filed and then immediately delivered to a media outlet, The Forward, which is prominent in the national Jewish community and has published inaccurate and inflammatory articles about Defendant Michigan Jewish Institute in the past. Exhibit B (emails between Mr. Binder and Paul Berger, which Mr. Binder forwarded to Rabbi Shemtov). The only possible reason for Mr. Binder to have immediately sent the complaint to Mr. Berger and *then notified Rabbi Shemtov that he had done so* is to “raise the ante” and put undue pressure on Defendants. That is exactly the type of ulterior motive that MCR 2.114 is designed to address.

3. THE COURT SHOULD ORDER PLAINTIFF TO POST A BOND

In the alternative, Defendants request that Mr. Binder be required to post a \$20,000 bond pursuant to MCR 2.109(A) (“On motion of a party against whom a claim has been asserted in a civil action, if it appears reasonable and proper, the court may order the opposing party to file with the court clerk a bond with surety as required by the court in an amount sufficient to cover all costs and other recoverable expenses that may be awarded by the trial court, or, if the claiming party appeals, by the trial and appellate courts. The court shall determine the amount in its discretion.”). See *In re Surety Bond for Costs*, 226 Mich App 321, 332, 573 NW2d 300 (1997) (A “substantial reason” for requiring security may exist where there is a “tenuous legal theory of liability,” or where there is good reason to believe that a party’s allegations are “groundless and unwarranted.”)

CONCLUSION

This case is frivolous on its face. It should never have been filed.

Exhibit A

ED00012151

832 N.W.2d 433 (2013)

300 Mich. App. 54

HAYS,

v.

LUTHERAN SOCIAL SERVICES OF MICHIGAN.

Docket No. 307414.

Court of Appeals of Michigan.

Submitted January 10, 2013, at Lansing.

Decided January 22, 2013.

Approved for publication March 19, 2013, at 9:20 a.m.

435 *435 Gafkay & Gardner, PLC, Frankenmuth, (by Julie A. Gafkay and Katherine S. Gardner), for plaintiff.

Clark Hill PLC, Detroit, (by Mark W. McInerney and Kymberly N. Kinchen), for defendant.

Before: OWENS, P.J., and FITZGERALD and RIORDAN, JJ.

PER CURIAM.

In this action brought under the Michigan Whistleblowers' Protection Act (**WPA**), MCL 15.361 *et seq.*, defendant, Lutheran Social Services of Michigan, appeals as of right a judgment entered in plaintiff's favor. Plaintiff cross-appeals regarding the trial court's dismissal of her "**about to report**" claim under the **WPA** and the partial denial of her motion for attorney fees. We reverse and remand for proceedings consistent with this opinion.

I. FACTUAL BACKGROUND

Plaintiff was employed as a home-healthcare provider for defendant. During the course of her employment, she encountered Client A, who smoked marijuana in his home and in plaintiff's presence when she was there on assignment by her employer. Plaintiff was informed of Client A's drug use before entering his home, and she discussed it with her supervisor and other coworkers. During one discussion with a coworker about Client A's drug use, plaintiff decided to call 911 and asked to be connected to the Bay Area Narcotics Enforcement Team (BAYANET). When speaking with a BAYANET official, plaintiff inquired about the potential consequences of someone knowing about the drug use of another and not reporting it. At the conclusion of the conversation, when asked by the BAYANET official if she would like to take any further action, plaintiff declined to do so.

As a condition of her employment, plaintiff had signed a client confidentiality agreement, consenting to keep information about her clients confidential. Plaintiff was eventually called into a meeting with her supervisor, at which the supervisor informed her that a complaint had been lodged against plaintiff for making a phone call about Client A. Plaintiff admitted to her supervisor that she called BAYANET. Plaintiff also recalled that her supervisor mentioned another phone call she supposedly made to an insurance company about Client A, although plaintiff denied making that call.

After she was terminated, plaintiff initiated this litigation, claiming that she was terminated in violation of the **WPA**. While defendant moved for summary disposition on plaintiff's "report" and "**about to report**" claims, the trial court only granted the motion with respect to the latter claim. After a jury trial, a judgment was awarded in plaintiff's favor in the amount of \$77,897.50. The trial court also awarded attorney fees and costs to plaintiff consistently with case evaluation sanctions in the amount of \$69,385.55. Defendant now appeals, and plaintiff cross-appeals.

II. SUMMARY DISPOSITION

A. STANDARD OF REVIEW

A grant or denial of a motion for summary disposition is reviewed de novo. MEEMIC Ins. Co. v. DTE Energy Co., 292 Mich.App. 278, 280, 807 N.W.2d 407 (2011). Statutory interpretation also presents a question of law that we review de novo. *436 Hoffman v. Boonsiri, 290 Mich.App. 34, 39, 801 N.W.2d 385 (2010).

B. "REPORT" UNDER THE WPA

"The WPA provides a remedy for an employee who suffers retaliation for reporting or planning to report a suspected violation of a law, regulation, or rule to a public body." Anzaldua v. Neogen Corp., 292 Mich.App. 626, 630, 808 N.W.2d 804 (2011). The purpose of the WPA is to protect the public by facilitating employee reporting of illegal activity. *Id.* at 631, 808 N.W.2d 804. It is the plaintiff's burden to establish a prima facie case under the WPA, which requires a showing that "(1) the plaintiff was engaged in a protected activity as defined by the WPA, (2) the plaintiff was discharged, and (3) a causal connection existed between the protected activity and the discharge." Manzo v. Petrella, 261 Mich.App. 705, 712, 683 N.W.2d 699 (2004). "The determination whether evidence establishes a prima facie case under the WPA is a question of law that this Court reviews de novo." Roulston v. Tendercare (Mich.), Inc., 239 Mich.App. 270, 278, 608 N.W.2d 525 (2000).

In regard to the first element of a prima facie plaintiff engages in a protected activity when he or she (1) reports to a public body a violation of the law, a regulation, or a rule, (2) is about to report such a violation to a public body, or (3) is being asked by a public body to participate in an investigation. Manzo, 261 Mich.App. at 712-713, 683 N.W.2d 699; see also Ernsting v. Ave Maria College, 274 Mich.App. 506, 510-511, 736 N.W.2d 574 (2007). On appeal, defendant argues that the trial court erred by denying its motion for summary disposition because plaintiff failed to actually make a report. As a matter of statutory interpretation, the definition of "report" is a question of law we review de novo. See Hoffman, 290 Mich.App. at 39, 801 N.W.2d 385. While the WPA does not define the term "report," courts may consult dictionary definitions when giving undefined statutory terms their plain and ordinary meaning. Koontz v. Ameritech Servs., Inc., 466 Mich. 304, 312, 645 N.W.2d 34 (2002). Accordingly, *Random House Webster's College Dictionary* (2005) defines "report" as "a detailed account of an event, situation, etc., [usually] based on observation or inquiry."¹¹

According to plaintiff's deposition testimony, she asked the BAYANET officer the following question: "If you're in a situation where there's illegal drugs and you happen — and this person happens to get in trouble, what is your consequence?" Essentially, plaintiff called the BAYANET officer to inquire about her potential liability if Client A's behavior was discovered, not to report any illegal behavior. Plaintiff did not provide any particulars or otherwise convey information that could have assisted the BAYANET officer in actually investigating any wrongdoing. There is no evidence that plaintiff identified herself, Client A, or Client A's location, nor did she provide any sort of detailed account of the situation. She did not even appear to specify the type of "illegal drugs" at issue. Thus, rather than providing a "detailed account of an event, situation, etc.," plaintiff was merely seeking to obtain information and advice.¹² Her lack of behavior

*437 that would constitute reporting is underscored by her negative response when the BAYANET officer asked if she wanted to take any further action.

Plaintiff analogizes the instant case to Whitaker v. U.S. Sec. Assoc., Inc., 774 F Supp 2d 860 (E.D.Mich., 2011). In Whitaker, the plaintiff was a security officer at the Detroit Metropolitan Wayne County Airport, and he brought an action under the WPA against the defendant, claiming that the defendant had retaliated against him for internal complaints and an e-mail he sent to the Transportation Security Administration (TSA). *Id.* at 861-865. The e-mail identified gate-related security issues at the airport and indicated that the plaintiff had "some questions on the regulations." *Id.* at 863.

The federal district court held that the plaintiff had established a prima facie case under the WPA because the e-mail was a "report." *Id.* at 868, 871. The court explained that the e-mail specifically identified two problems and communicated

the plaintiff's intent to learn more about the regulations applicable to the two security concerns. *Id.* at 868-869. The court noted that the TSA and the defendant's own management construed this email as "raising concrete security concerns that warranted further investigation...." *Id.* at 868. Ultimately, the court rejected the defendant's contention that the plaintiff's e-mail "merely posed questions and sought information...." *Id.* at 869.

Whitaker is not similar to the instant case. The plaintiff in *Whitaker* specifically identified the regulatory violations and provided the TSA with sufficient information to further investigate the regulatory violations. Here, in contrast, plaintiff only referred to "illegal drugs" and did not provide the BAYANET officer with any information to further investigate the illegal activity. Thus, plaintiff's reliance on *Whitaker* is misplaced.

Moreover, categorizing plaintiff's behavior as a report under the **WPA** would not further the purpose of the statute, namely, to protect the public by encouraging reporting of illegal activity. Plaintiff's phone call did not provide law enforcement with the means to investigate Client A's marijuana use or to protect the public from that behavior. Plaintiff's only concern was to obtain information about her hypothetical liability, not to provide law enforcement officials with any concrete facts from which they could actually investigate or enforce the law. Thus, plaintiff failed to establish that she made a report under the **WPA** and because she failed to establish a *prima facie* case, defendant was entitled to summary disposition.^[3]

438 *438 C. "ABOUT TO REPORT" UNDER THE WPA

On cross-appeal, plaintiff argues that the trial court improperly dismissed her "about to report" claim and granted summary disposition to defendant. As noted, the **WPA** extends to employees who are **about to report** a suspected violation. *Manzo*, 261 Mich.App. at 712-713, 683 N.W.2d 699. Thus, "[a] plain meaning reading of the act shows that an employee 'about to' report receives the same level of protection as one who has reported to a public body." *Shallal v. Catholic Social Servs. of Wayne Co.*, 455 Mich. 604, 611, 566 N.W.2d 571 (1997). An "employee seeking protection under the 'about to report' language of the act [must] prove his intent by clear and convincing evidence." *Chandler v. Dowell Schlumberger Inc.*, 456 Mich. 395, 400, 572 N.W.2d 210 (1998); see also MCL 15.363(4). The employer also is entitled "to objective notice of a report or a threat to report by the whistleblower." *Roulston*, 239 Mich.App. at 279, 608 N.W.2d 525 (quotation marks and citations omitted).

In the instant case, plaintiff discussed Client A's marijuana use with her supervisor and coworkers and called BAYANET to inquire about any potential liability. Plaintiff argues that these facts establish a *prima facie* case that she was **about to report** a violation. In particular, plaintiff relies on her phone call to BAYANET to support her argument that she was **about to report** Client A's behavior. However, as discussed earlier, that phone call was not a report. Moreover, simply because plaintiff called BAYANET to inquire about her potential liability does not demonstrate that she intended to take any further action and actually report the behavior to a public body. In fact, when the BAYANET officer asked if she would like to take any further action, plaintiff declined the offer. Plaintiff's discussions with coworkers and supervisors about Client A's behavior also fail to demonstrate that she intended to report the behavior. Her conversations demonstrate only that while plaintiff knew about the behavior and had a sufficiently long time to report the behavior, she declined to do so.

There also is no evidence that plaintiff informed anyone that she was about to take further action and report the behavior to a public body. In sharp contrast is *Shallal*, 455 Mich. at 613-614, 621, 566 N.W.2d 571, in which the plaintiff told the president of the company that she would report him for misusing funds and abusing alcohol if he did not "straighten up." The plaintiff in *Shallal* also discussed with various individuals the possibility of reporting the president's behavior. *Id.* at 613-614, 620 n. 9, 566 N.W.2d 571. Our Supreme Court held that the plaintiff's explicit threat to report the president combined with her other actions satisfied the "about to report" language of the statute. *Id.* at 615, 621, 566 N.W.2d 571. Yet in the instant case, there is no evidence that plaintiff communicated such an explicit threat to report the behavior. There also is no evidence that plaintiff informed others that she intended to actually report the behavior to a public body.

Consequently, there is no evidence that defendant received objective notice that plaintiff was **about to report** Client A's behavior to a public body. Plaintiff never informed or threatened defendant that she would place a second call to

439 BAYANET or *439 another law enforcement agency. There is nothing in the record to suggest that plaintiff explicitly or implicitly informed defendant that a report of Client A's illegal activity was pending. Therefore, the trial court did not err by granting summary disposition to defendant on plaintiff's "about to report" claim because there is no clear and convincing evidence of her intent to report the behavior.

III. CONCLUSION

Because plaintiff failed to establish a prima facie case for her "report" and "about to report" claims under the WPA, defendant was entitled to summary disposition. We decline to address plaintiff's arguments concerning attorney fees because she is no longer a prevailing party and is not entitled to fees. We reverse the trial court's judgment in favor of plaintiff and the award of fees and costs to plaintiff. We remand this case for proceedings consistent with this opinion and do not retain jurisdiction.

OWENS, P.J., and FITZGERALD and RIORDAN, JJ., concurred.

[1] Similarly, in People v. Holley, 480 Mich. 222, 228, 747 N.W.2d 856 (2008), our Supreme Court relied on *Random House Webster's College Dictionary* (2001) in defining "report" identically in the context of reporting a crime.

[2] Analogous is Garrie v. James L. Gray, Inc., 912 F.2d 808 (C.A.5, 1990), a case from the United States Court of Appeals for the Fifth Circuit. *Garrie* involved a plaintiff who was employed as a skipper on a ship owned by the defendant. *Id.* at 809. The plaintiff called the Coast Guard and identified himself, but not his employer, and inquired about whether "the regulation regarding maximum working hours was still in effect," although he declined to file a formal complaint. *Id.* (quotation marks omitted). In rejecting the plaintiff's argument that his behavior constituted a report, the court concluded that the plaintiff had

merely made an inquiry of the Coast Guard as to whether a particular statute was still in effect. He sought information, but did not provide it. He did not file a complaint, nor did he reveal the name of his employer or the vessel upon which he was employed — information without which the Coast Guard could not investigate or prosecute a violation.

Id. at 812. Likewise in the instant case, plaintiff sought information without providing anything to BAYANET that it could investigate or use to prosecute any potential violation.

[3] While plaintiff cites her trial testimony to support her argument that she did make a report, when reviewing a trial court's decision on a motion for summary disposition this Court considers only "what was properly presented to the trial court before its decision on the motion." BC Tile & Marble Co., Inc. v. Multi Bldg. Co., Inc., 288 Mich.App. 576, 583, 794 N.W.2d 76 (2010) (quotation marks and citation omitted). Furthermore, despite plaintiff's opinion at trial that she did make a report, the lack of any specific detail provided to the BAYANET officer about Client A clearly demonstrates that plaintiff was merely making an inquiry, not a report.

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Exhibit B

ED00012156

----- Forwarded message -----

From: **Richard Binder** <rbbc2003@^{(b)(6)}>
Date: Mon, Dec 29, 2014 at 11:59 PM
Subject: Fwd: December 29, 2014
To: Rabbi Kasriel Shemtov <rbbi@^{(b)(6)}>

----- Forwarded message -----

From: Paul Berger <berger@^{(b)(6)}>
Date: 4:29pm, Mon, Dec 29, 2014
Subject: December 29, 2014
To: Richard Binder <rbbc2003@^{(b)(6)}>

Our conversation on Monday December 29, 2014 — and all previous conversations — are off the record. Anything you tell me can be used for background purposes only. On the record conversations will take place with Richard's attorney. Richard will endeavor to arrange for this ASAP.
Paul

--

Paul Berger
p: +1 (347) 836-^{(b)(6)}
berger@^{(b)(6)}

----- Forwarded message -----

From: Richard Binder <rbbc2003@(b)(6)>
Date: 11:40pm, Mon, Dec 29, 2014
Subject: Re: Follow Up to Our Conversation
To: Paul Berger <berger@(b)(6)>

Good evening,

Acknowledging receipt. I have developed a writing that answers these questions and forwarded to my attorney for review along with a request for conference call.

I will do my very best to meet your deadline.

Sincerely,

Richard

On 5:24pm, Mon, Dec 29, 2014 Paul Berger <berger@(b)(6)> wrote:
Hi Richard,

I've had a word with my editor. It sounds as though he would like me to get some more on-the-record information from you before we publish this story.

The two areas I want to focus on are:

1. The HUD drawdown: Could you explain, on the record, why this drawdown was unlawful.
2. The ACICS staging: Could you explain, on the record, how and why MJI gave "the appearance of a University."

Would you be able to have a phone conversation with me tomorrow (Tuesday) with your attorney present on the phone, to discuss this, before 2pm?
If that's not possible, would you be able to answer these two questions (with your attorney's oversight) before 2:30pm tomorrow?

Best,
Paul

Paul Berger
p: +1 (347) 836-(b)(6)
berger@(b)(6)

Received for Filing Oakland County Clerk 2015 JAN 05 AM 11:15

----- Forwarded message -----

From: **Richard Binder** <rbbc2003@(b)(6)>
Date: Wed, Dec 31, 2014 at 8:41 PM
Subject: Fwd: Acknowledging your VM - working on that specific request now.
To: Rabbi Kasriel Shemtov <rabbi@(b)(6)>

----- Forwarded message -----

From: **Richard Binder** <rbbc2003@(b)(6)>
Date: 2:30pm, Tue, Dec 30, 2014
Subject: Re: Acknowledging your VM - working on that specific request now.
To: Paul Berger <berger@(b)(6)>

I am sorry that I missed the deadline.
I am doing the best that I can.

I will be in touch soon. Call or email anything whatsoever.

Best,

Richard

On 11:37am, Tue, Dec 30, 2014 Paul Berger <berger@(b)(6)> wrote:
Thank you!

On Dec 30, 2014, at 11:10 AM, Richard Binder <rbbc2003@(b)(6)> wrote:

>
>
> Sincerely,
>
>
> Richard Binder
> 248-808-(b)(6)



February 3, 2015

ID Code 00015775

VIA E-MAIL ONLY

Mr. Kasriel Shemtov
President
Michigan Jewish Institute
6890 West Maple Road
West Bloomfield, MI 48322

Dear Mr. Shemtov:

The Council has been informed that Mr. Richard Neal Binder, In Pro Per, has filed a lawsuit against Michigan Jewish Institute (MJl), West Bloomfield, MI, for wrongful termination. The case was filed on December 26, 2014, in the Circuit Court for the County of Oakland, MI (Case 2014-144740-CD.) Among the allegations in the complaint is a statement that MJl perpetrated “in statements to the Department of Education regarding “an elaborate staging — to give appearance of a University”... in anticipation of scheduled audits of (MJl).” The Council is required to review any adverse information regarding an institution once such information becomes known.

Please provide this office with a written response to this information, including copies of appropriate materials to support your statements. The Council will expect your response on or before **February 20, 2015**.

Your immediate attention to this matter is appreciated. If you have any questions, please contact me at (202) 336-(b)(6) or [\(b\)\(6\)](mailto:abieda@(b)(6))

Sincerely,

(b)(6)

Anthony S. Bieda
Vice President for External Affairs

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

RICHARD NEAL BINDER,

Plaintiff,

vs.

Case 2014-144740-CD
Hon. JUDGE BOWMAN

THE SHUL, CONGREGATION BAIS CHINUCH,
THE MICHIGAN JEWISH INSTITUTE (MJI), and
CHABAD LUBAVITCH OF MICHIGAN, and
RABBI KASRIEL SHEMTOV, et al.,

Defendants, Jointly and Severally.

Richard Neal Binder, In Pro Per
24562 Rensselaer Street
Oak Park, MI 48237
Telephone: (248) 808-0077

By: Stephen T. Chema II
Attorney for Defendant
11350 Random Hills Road
Fairfax, VA 22030
Telephone: (703) 934-2660

COMPLAINT FOR WRONGFUL TERMINATION with JURY DEMAND

Now comes Plaintiff Richard Neal Binder, In Pro Per, and brings this cause of action timely in accordance with the 90 day requirement of (WPA) MCLA 15.363.

1. Plaintiff RICHARD NEAL BINDER is a resident of Oakland County, whose address is 24562 Rensselaer Street, Oak Park, MI 48237.

2. Defendant "THE SHUL" does business in Oakland County and is located at 6890 West Maple Road, West Bloomfield, MI 48322.
3. Defendant RABBI KASRIEL SHEMTOV resides in Oakland County at 6211 Quaker Hill Drive, West Bloomfield, MI 48322.
4. Defendant CONGREGATION BAIS CHINUCH does business in Oakland County and is located at 14100 West Nine Mile Road Oak Park, MI 48237.
5. Defendant (MJI) does business in Oakland County, and is located at 19900 West Nine Mile Road #200, Southfield, MI 48075.
6. Plaintiff was an employee, MCL 15.361(a), from January 1, 2012 through the date of his termination on September 29, 2014.
7. Defendant (MJI) is a recipient of a Department of Homeland Security award through The State of Michigan FY 2011 Urban Areas Security Initiative Nonprofit Security Grant Program Grant CFDA Number: 97.008, Grant Number EMW-2011-UA-00025, for improvements to Defendant THE SHUL.
8. Defendant (MJI) is the recipient of a Congressional grant award through The Department of Housing and urban Development Appropriation Act of 2006 (P.L. 109-115) B-06-SP-MI-0478: by MJI in West Bloomfield, Michigan for improvements to campus buildings and classrooms.

9. MJI's main teaching facility is listed with The Department of Education as 6890, West Maple Road, West Bloomfield, MI 48322.

10. MJI is an accredited University through ACICS, under regulation by The Department of Education.

11. For reasons known only to all Defendants, Plaintiff was without his knowledge or consent, presented in official writings with Holly A. Kelly, Acting Director Congressional Grants Division, as the President of MJI, and would therefore become responsible for what had been a rushed and unlawful draw down of Federal funds on September 30, 2013.

12. The NGSP 2011 Homeland Security Grant had a deadline for completion of September 30, 2014. The grant states "Should a grantee fail to comply with these deadlines, it becomes automatically indebted to the United States and must "promptly" repay advances to the United States Government". In the lead up to the September 30, 2014 deadline all Defendants became aware that Plaintiff had concern that the current situation was mirroring the facts of The United States of America vs. Chabad of California, and expressed ultimately that he had already provided information protected under this statute, and felt compelled to provide more. This would include statements to The Department of Education regarding the "an elaborate staging - to give appearance of a University" of Defendant THE SHUL's building in anticipation of scheduled audits of (MJI).

13. Plaintiff was discharged specifically for his involvement in protected activity under State Statute. Chandler v. Dowell Shumberger, 456 Mich 395; 572 NW2d 210 (1998)

REQUESTED RELIEF

Wherefore, Plaintiff respectfully pray that the Honorable Court will enter judgement in Plaintiffs' favor and against all Defendants for whatever sum of money in excess of \$25,000 to which Plaintiff is found to be lawfully entitled plus awarding Plaintiff costs, equitable relief, and whatever other relief to which he is entitled.

Respectfully Submitted:

(b)(6)

Richard Neal Binder

ס"ד

Study Abroad

An Opportunity in Global Learning

Why MJI

- Guaranteed transfer of seminary/yeshiva credits toward an MJI college degree
- Multiple degrees available through online, traditional and hybrid class formats
- Offers a traditional Jewish environment
- Financial aid is available for students who qualify

How to Apply

To apply to the MJI BIS program, go to www.mji.edu and click on "Apply Now". We strongly suggest that applicants speak to an MJI Advisor to develop their academic goals.

How to Apply for Financial Aid

For students who qualify for financial aid, eligibility is determined by completing the FAFSA form found at www.fafsa.ed.gov. To ensure proper processing and timely receipt of financial awards, students applying for financial aid should complete and provide all necessary documentation concerning financial aid no later than June 1 prior to the academic year desired.

The Michigan Jewish Institute admits students to its degree programs without unlawful discrimination to race, religion, color, age, sex, sexual orientation, marital status, disability, handicap, national origin, height, weight, or other protected classifications, granting all the rights, privileges, programs, utilization's, benefits and other activities generally accorded or made available to students at the Institute. The Michigan Jewish Institute admits qualified men of the Jewish faith to the certificate program in Talmudic Law and Jurisprudence, without unlawful discrimination to race, color, age, marital status, disability/handicap, national origin, height, weight, or other protected classifications, granting all the rights, privileges, programs, utilization's, benefits and other activities generally accorded or made available to students at the Institute. The Michigan Jewish Institute expressly forbids unlawful discrimination and sexual harassment in admission, training and treatment of students, education and educational opportunities, the use of Institute facilities, and the awarding of contracts.

Michigan Jewish Institute (MJI) was founded in 1994 to meet the intellectual and academic needs of the Jewish community with particular emphasis on those who desire to study in a collegial environment. MJI is recognized as a 4-year, senior college accredited by the Accrediting Council for Independent Colleges and Schools (ACICS) to award Associate and Bachelor degrees and certificates. Students are able to complete their degree in several ways—online, the traditional classroom or a blend of both methodologies. MJI is committed to its students by offering excellent class educators, access to faculty, staff and administrative support. MJI focuses on small, well-designed classes.

MJI became one of the early adopters of online education. In 2005, MJI Online has continued to grow its distance learning program on a worldwide basis, bringing the same quality of traditional Jewish classroom education and Jewish environment to the virtual classroom.

MJI offers a Bachelor of Applied Science in Judaic Studies with a concentration in Jewish Leadership, Jewish Education or Jewish Studies. MJI also offers a Bachelor of Applied Science in Business and Computers.

One of MJI's most unique aspects is the ability to transfer credits from a student's study abroad experience. Working closely with host schools in Israel, students who participate in the MJI Study Abroad Program may earn additional credits per year toward their bachelor degree.

Students attending MJI if qualified may be eligible for financial aid at the federal and state level. Additional grants and scholarships may also be available to qualified students through MJI.

Michigan Jewish Institute is a senior college accredited by the Accrediting Council for Independent Colleges and Schools to award Associate and Bachelor degrees and certificates.