

To: Kamala Harris (San Francisco)
From: Randy Chapel
Date: April 25, 2018
Re: Letter dated April 10, received on April 24.

Dear Senator Harris:

Thank you for the opportunity to respond to your letter dated April 10, 2018 and to clear some issues up.

1. **I am your constituent.**
2. As noted in each of the letters, "*I am from Northern California.*" See below:

You are receiving this letter as part of the paper trail of this case. My parents live on the Big Island of Hawaii (96771) and in Boulder Creek, CA (95006), while **I am from Northern California**. I included Senator Warren due to her long-standing concerns about the Department of Education not holding schools accountable, especially schools defrauding students. I am also sending this to Senator Murray because she is the ranking member on Senate H.E.L.P.

3. Communications simply use the Hawaii address as the central source of all communications – regardless if it is from my mother or me.
4. I was the author concerning each communication sent to you, with the exception of the May 15, 2017 FOIA review in which Carol was the primary author and I reviewed her letter and provided her my feedback.
5. Carol owns a house and land in Boulder Creek, CA. She spends at least six months a year in CA, and she receives mail through the U.S. Postal Service and pays for utilities/road fees/etc. for that location. (PO Box 717, Felton CA. 95018)
6. The issues of this case occurred in Northern California.
7. Issues were primarily litigated in the Northern District Court of California or Santa Clara Country.
8. I was a student in Los Gatos, CA.
9. OCR - San Francisco was involved in this case.
10. Contractual relationships were California based.
11. I am aware of your work as Attorney General for the State of California, including your work on the Corinthian Colleges Inc. case regarding predatory and unlawful business practices. In particular to that judgment, the Court ordered restitution on behalf of students in the amount of \$820,000,000 and civil penalties totaling \$350,025,000, for a total of \$1,170,025,000 in monetary relief. I am aware that your suit against CCI included many issues including *enrollment agreements that contained unlawful clauses allowing students to retain previously earned education, only then to seek any additional education leading to the student's academic and professional goals.*¹

I am also aware of the work by Jerry Brown in 2007 against CCI as well (*State of California v. Corinthian Schools, Inc. Los Angeles County Superior Court Case No. BC374999*).² The State sued under Business and Professions Codes §§ 17200 and 17500 as CCI was using settlement agreements to cover up from the government their ongoing illegal, unfair and unlawful business activities.

If you were not already aware, a one-time unfair business act has been deemed sufficient to allege a Section 17200 claim: *Allied Grape Growers v. Bronco Wine Co., 203 Cal. App. 3d 432, 452 (1988)* (determined defendant's conduct relating to a single contract constituted a "practice" under Section 17200). A business act or practice is "unlawful" if it violates some other law. Explaining the "unlawful" prohibition under Section 17200, the California Supreme Court stated that Section 17200 "'borrows' violations of other laws and treats these violations, when committed pursuant to business activity, as unlawful practices independently actionable under [Section] 17200." *Farmers Ins. Exch. v. Superior Court, 2 Cal. 4th 377, 383 (1992)*. Claims about "unlawful" business acts or practices under Section 17200 are predicated on numerous laws and regulations at various levels of government, including: federal statutes;³ federal regulations;⁴ state statutes;⁵ state regulations;⁶ local ordinances;⁷ and case law.⁸ What Western Seminary did goes well beyond what CCI did.

¹ <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-obtains-11-billion-judgment-against-predatory>. Western Seminary's "educational expert" Rob Wiggins testified that the 17 page settlement agreement was an enrollment agreement.

² <https://oag.ca.gov/news/press-releases/brown-reaches-multi-million-settlement-corinthian-vocational-school>

³ See, e.g., *Ballard v. Equifax Check Serv., Inc.*, 158 F. Supp. 2d 1163, 1176 (E.D. Cal. 2001) (Section 17200 violation for "unlawful" conduct predicated upon defendant's violation of federal Fair Debt Collection Practices Act); *Southwest Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 808 (N.D. Cal. 1989) (holding that plaintiff stated a claim under Section 17200 based on a violation of federal environmental laws).

⁴ See *Southwest Marine, 720 F. Supp.* at 807-08 ("borrowing" Navy procurement regulation as predicate for Section 17200 was proper where

Western Seminary's education criteria for my two master degrees includes the following nefarious demands:

- a. Randy and Carol Nye-Wilson had to release Western Seminary, et al., -- including our claims for discrimination, harassment, hostile environment, failure to prevent discrimination and/or harassment, ... ¶4 to prevent any future complaint to a government agency such as OCR or to the AG. Western Seminary, et al. figured if Randy and Carol figured out in the future the educational fraud and government corruption involving Western Seminary, et al. and others, they were protected from any future claims for damages.
- b. Randy and Carol had to waive Civil Code Section 1542 (¶ 6), because Western Seminary, et al. figured if Randy and Carol figured out in the future the educational fraud and government corruption involving Western Seminary, et al. and others, they would be protected from our future damages or claims.
- c. ¶ 8 – 10 Western Seminary, et al. required Randy and Carol to say *only* Western's approved statements and we could say nothing about what we knew or would come to know about the educational fraud and government corruption involving Western Seminary, et al. and others, and we could not use material evidence like transcripts or exhibits in the process.
- d. ¶ 11a Randy had to submit to arbitration to keep others, including the government and public from learning about the educational fraud and government corruption involving Western Seminary, et al. and others. Western Seminary, et al. tried but failed to force Carol into arbitration. While Bert Downs claimed arbitration was part of Christianity, it really was a premeditated cover-up of educational fraud discovered by Randy and Carol.
- e. ¶ 11b Randy and Carol had to submit to liquidated damages benefitting Western Seminary, et al. Each and every statement posted by Randy and/or Carol on the internet or to the government, including this very letter, since March 15, 2006 is worth \$10,000 per defendant and up to \$100,000 per defendant.
- f. ¶ 14-15 this is Western Seminary's premeditated fraud to prevent Randy and Carol from filing complaints for administrative action, such as a complaint to OCR for "sex discrimination," or helping government attorneys in a False Claims Act case against Western Seminary.
- g. ¶ 14 this demands no complaints about Matt Tuck, the son of Gary Tuck. When taken with the whole, Western Seminary used the settlement agreement not only to cover up for the child molester Steve Korch, but also to cover up Western's Section 504/ Title IV fraud and for Gary Tuck's son.
- h. In addition to all the above, Western Seminary, et al. also held Randy's education ransom unless Carol signed the agreement and gave up her First Amendment freedoms of religion and peaceful protest.

The work by you and Governor Brown as former AGs held that demands upon students and third parties by schools are illegal, unfair and unlawful activities. As of the date of this letter, the U. S. Department of Education is not interested in what the licensing authority held or decisional court cases, and it actively supports educational criteria for my two master degrees covering up child molestation and multiple frauds against the government for over \$20,000,000 at this point.

12. The complex white collar criminal issues I presented to six U.S. Senators involve violations of the U.S. Constitution, Federal laws and regulations, as well as the CA Constitution, State laws and regulations and decisional cases. As a U.S. Senator you are of course interested in how your constituents are wrongly impacted, as well as when issues involve the Constitution, federal laws and regulations. Unlike the other Senators, you have direct experience dealing with predatory and unlawful practices by schools. Thus, your direct knowledge is important in this case.

defendant was able to underbid Navy contract as a result of improperly disposing hazardous wastes).

⁵ Various state law violations, ranging from criminal statutes to the California Vehicle Code, have served as the underlying bases for "unlawful" claims. See, e.g., *Midpeninsula Citizens for Fair Housing v. Westwood Investors*, 221 Cal. App. 3d 1377, 1390, 1393 (1990) (enforcing Unruh Civil Rights Act); *Quelimane*, 19 Cal. 4th at 42-43 (violations of the Cartwright Act); *Hewlett v. Squaw Valley Ski Corp.*, 54 Cal. App. 4th 499, 520-25 (1997) (violations of the Forest Practices Act) (superseded by statute); *Podolsky v. First Healthcare Corp.*, 50 Cal. App. 4th 632, 649 (1996) (violation of the Consumers Legal Remedies Act ("CLRA")); *People ex rel. Van de Kamp v. Cappuccio, Inc.*, 204 Cal. App. 3d 750, 759 (1988) (violations of Fish & Game Code); *Stop Youth Addiction*, 17 Cal. 4th at 573 (violation of penal code prohibition of cigarette sales to minors).

⁶ See, e.g., *People v. McKale*, 25 Cal. 3d 626, 635 (1979) (mobile home park regulations); *People v. Casa Blanca Convalescent Homes, Inc.*, 159 Cal. App. 3d 509, 528-30 (1984) (nursing home regulations).

⁷ See, e.g., *Consumers Union of United States, Inc. v. Alta-Dena Certified Dairy*, 4 Cal. App. 4th 963, 967 (1992) (county ordinance regulating the sale of raw milk products); *People v. Thomas Shelton Powers, M.D., Inc.*, 2 Cal. App. 4th 330, 334, 336 (1992) (city subdivision code) (overruled on other grounds).

⁸ See, e.g., *Bondanza v. Peninsula Hosp. & Med. Ctr.*, 23 Cal. 3d 260, 266-68 (1979) (holding surcharge on delinquent account was "unlawful" in that it violated rule adopted in earlier case).

For ten years, the agency has supported and defended with public money that Western Seminary can cover up ongoing corruption and criminal acts by the school with its accreditors as criteria for my education and the granting of my two master degrees as a means to *preempt federal [and state] law and impermissibly target the Federal Government* (Section 504 of the Rehabilitation Act of 1973, 20 U.S. Code § 1232g; 34 CFR Part 99, Title IV, IX, 31 U.S. Code §§ 3729–3733, 20 U.S. Code § 1094, etc.) by using education as a vehicle for fraud.

Just as schools can't preempt federal [or state] law or undermine the Federal Government with dodgy policies, it also follows that school administrators don't have "magical powers" to evade or preempt the law. This most certainly is the case for the child molester Steve Korch demanding the cover up of his unnatural sexual history,⁹ and Gary Tuck covering for his adult son concerning Section 504 requirement violations.¹⁰ Yet for ten years, public money has been spent defending that illegal, unfair and unlawful activities can be linked as criteria to education, undermining what you and Governor Brown fought against.

Finally, Western Seminary conducts business in each state through its online program. NWCCU has 162 accredited schools representing seven states, while ATS has 270 accredited schools nationwide. This represents hundreds of millions of dollars under Title IV programs. Since 2008, the agency defended the position that schools accredited by ATS and NWCCU can demand compliance with **extortionate criteria**, I noted above, that extorts previously earned, graded, and paid for course work and for all additional course work leading to a degree. If Western Seminary can force my mother and me to cover for its prior and ongoing illegal, unfair, and unlawful activities by its administration as criteria for education, then there is nothing stopping any other school from doing the same thing—regardless if the school is in California or any other state.

I am sure you'll agree this scam is something America's students and families can't afford to be normalized.

Please inform me by postmark prior to May 10, 2018, if you anticipate taking a different position than the one you took in the letter dated April 10, 2018. This case not only impacts your **constituent**, but also raises serious power grab issues regarding what the agency and accreditors are doing over and against the states' authority to regulate schools doing business in the state.

Randy

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⁹ *Mary R. v. B. & R. Corp.*, 149 Cal. App. 3d 308 (1983) "The stipulated order of confidentiality is contrary to public policy, contrary to the ideal that full and impartial justice shall be secured in every matter and designed to secrete the evidence in the case from the very public agency charged with the responsibility of policing the medical profession. We believe it clearly improper, even on stipulation of the parties, for the court to issue an order designed not to preserve the integrity and efficiency of the administration of justice (cf. *Younger v. Smith* (1973) 30 Cal. App.3d 138 [106 Cal. Rptr. 225]), but to subvert public policy by shielding the doctor from governmental investigation designed to protect the public from misconduct within the medical profession, and which may disclose a professional license of this state was used to establish a relationship which subjected a juvenile patient to criminal conduct. Such a stipulation is against public policy, similar to an agreement to conceal judicial proceedings and to obstruct justice. (*Maryland C. Co. v. Fidelity, etc. Co.* (1925) 71 Cal. App. 492, 499 [236 P. 210].) Moreover, in light of the statutory obligation 317*317 of Division to investigate and regulate the medical profession, a law established for a public reason cannot be waived or circumvented by a private act or agreement. (*Covino v. Governing Board* (1977) 76 Cal. App.3d 314, 322 [142 Cal. Rptr. 812]; Civ. Code, § 3513; see *Bianco v. Superior Court* (1968) 265 Cal. App.2d 126, 130-131 [71 Cal. Rptr. 322]; *Benane v. Internat. Harvester Co.* (1956) 142 Cal. App.2d Supp. 874, 878 [299 P.2d 750].) Accordingly, since such a contract made in violation of established public policy will not be enforced (*Bianco v. Superior Court, supra*, 265 Cal. App.2d 126, 131), it is improper for the court to sanction the parties' stipulation under the pain of threatened contempt. In light of its over breadth and its intended effect upon the investigation of Division, we strike the order of confidentiality, stressing an enactment designed for the public welfare cannot be abridged by stipulation. (3 Cal.Jur.3d, Agreed Case and Stipulations, § 18, p. 270; see *Wilson v. Wilson* (1973) 45 Cal. 399, 405.)"

¹⁰ *Barker v. Riverside County Office of Educ. (9th Cir. 2009) 584 F.3d 821* "No recipient or other person shall intimidate, threaten, coerce, or discriminate against *any individual* for the purpose of interfering with any right or privilege secured by Section 601 of [the Civil Rights] Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part."