



501 Woodlane, Suite 600 | Little Rock, AR 72201 | o: 501-660-1000 | f: 501-660-1010

DATE: August 3, 2016

TO: Dr. Charles L. Welch, President
Arkansas State University System

FROM: Jo LunBeck
Assistant Vice Chancellor for Administration

RE: Arkansas State University-Jonesboro Chancellor Potential Noncompliance with State of
Arkansas Law

During a review of concerns outlined in EthicsPoint Case_31 (Case 31), Internal Audit (IA) noted occurrences of potential noncompliance with a State of Arkansas law that were outside the purview of Case 31. Because IA deemed the occurrences required administrative review, this memorandum is serving as notification of the potential noncompliance.

The Arkansas State University-Jonesboro (ASUJ) Chancellor's activities may raise questions under Arkansas Code Annotated (A.C.A.) § 21-8-304, *Prohibited Activities*, when he appeared to use his position to secure financial assistance for a family member. For example, three occurrences have been provided for your review and consideration:

1. An email with a family member's resume attached, dated November 25, 2015, from the Chancellor to an individual who works for a partner for ASUJ, Subject: ...[family member], states:

“... I would like to talk to you about ... [family member] – [family member] is very interested in NYIT – but frankly, we'd need some sort of help to make that a reality. Perhaps we can find a way to be mutually helpful. ...”

A subsequent email, dated November 30, 2015, from the individual to the Chancellor, Subject: *Tuition Exchange Program*, includes a forwarded email with the *Tuition Exchange Program* guidelines, and states:

“... Arkansas State should look into joining the Tuition Exchange Program ... [family member] would then be eligible for a 100% scholarship to NYIT. ...”

An email, dated November 30, 2015, from the Chancellor to the individual, states:

“... Will check – but occurs to me that maybe we should just create together an ‘exchange’ as part of our partnership since you will have employees here – limit it to 5 or so new ones a year? With eligibility requirements to sustain, etc. maybe NYIT employees and dependents could pay the IN-State rate (unless they qualified for a ‘better’ rate via an SAT score, etc.) – this would amount to a significant ‘discount’ (neighborhood of 66% over top rates) – so maybe this same discount rate (66%?) would be applied to ASU employee dependents at NYIT – just a thought. ...”

In an email, dated the same day, the individual responded to the Chancellor:

“... you have the better idea ... if OK with you I will start having my HR folks draft the NYIT-ASU Exchange MOU. ...”

Subsequently, on January 5, 2016, the Chancellor emailed the individual again, the email states:

“... On a more personal note, attached here is ... [family member]’s resume, including a website address that has some photos and provides more info. ...

There are many personal, professional and political reasons that I continue to encourage [family member] – not the least of which is that I think it is a good ‘fit’... As a friend, however, I am sure you are aware that we would need some substantial assistance to make this financially viable, simply due to the number of ‘intervening opportunities’ ...

I do not know what options might be available ... but any consideration would be greatly appreciated ... for sure, here, if ... [family member] were to attend NYIT, it would be seen as a mark of validation and ‘good for the order’ of all we are doing and plan to do together – maybe ... [family member] could be part of the vanguard of the ‘exchange’ plans we discussed. I know I deal with these types of ‘special requests’ every day and, if it looks good for all concerned, do my best to make things happen. I do not pretend to know your options or whether there are any.

Of course, I speak as the father, ... I would love for ... [family member] to be able to consider something from NYIT within the next six weeks or so.

Regardless, I appreciate your time and attention and friendship. ...”

The individual emailed the Chancellor on the same day and responded:

“... I will work ... [family member]’s request and carry the answer to Jonesboro; see you on January 21st. ...”

Approximately three weeks later, on January 25, 2016, the Chancellor emailed the individual the following:

“... Also – on a person [sic] note I want to thank you for your interest in ... [family member] ... If more could be done, we would be honored and indebted and would hope to one day return the favor.
...”

The Chancellor emailed the individual again one minute later and copied the Vice Chancellor for Student Affairs (VCSA). The email stated:

“... Please consider this an informal note to simply rekindle the dialogue. I have included ... who oversees financial aid and enrollment at A-State.

... [W]e began discussion of a possible MOU between NYTT and A-State regarding dependent tuition rates. ... I believe the timing is propitious for moving this idea forward. Plus, we have a Board of Trustees meeting in late February and IF any agreement needed approval (not sure it does), that would be a good time to ask for it. And, I see no problem with what I am suggesting below.

I believe this agreement should apply ONLY to UNDERGRADUATE students at present (perhaps later a separate MOU can be crafted for graduate students).

This COULD get complicated but I prefer to keep it as simple as possible. To me, there are only two fundamental variables: a) the tuition/fee rate assessed each population, and b) the question of whether these students would qualify for additional ‘institutional’ scholarships such as those associated with certain test scores. ...

Frankly, I do not believe there will ever be large numbers of students who will ever be attending the ‘other’ institution – but a reciprocal agreement of this sort would be widely viewed as yet another mutual benefit of a partnership which holds such great promise. ...”

An email dated February 24, 2016, from the Chancellor to the Vice Chancellor for Finance and Administration (VCFA) and VCSA, states:

“PRIVATE for NOW ... In informal exchanges with Edward Guiliano and folks at NYTT we have discussed another possible point of collaboration by providing the dependents of employees of each institution some ‘discount’ on undergraduate tuition ... We know that there are not likely to be many ‘takers’ – but perhaps some ...”

An email, dated the same day, from the VCFA to the Chancellor, states:

“... When you brought this to my attention previously, ... [Assistant Vice Chancellor for Human Resources] and NYTT HR rep had preliminary conversations ... Let me also follow up ...”

The Chancellor responded to the VCFA: “Let’s talk first. ...”

2. An email, dated April 21, 2016, from the Chancellor to Rev. Wildes at Loyola, with a subject that includes “Daughter at Loyola; From Chancellor Tim Hudson, Arkansas State University”, states:

“... I have to be somewhat conscious of costs. Loyola has offered ... [family member] a scholarship ... However, if there is any additional assistance that you or others might provide, I believe that would confirm ... [family member]’s decision ...

I know you must deal with these matters every day (I know I do) and I apologize for putting another case on your desk. . . . Any additional financial consideration at this juncture would be appreciated.

Meanwhile, if I can ever be of assistance to you or anyone associated with Loyola, I hope you will do me the honor of calling on me. . . .”

The Executive Assistant to the President (EAP) responded to the Chancellor the same day:

“... Fr. Wiles asked that I acknowledge and thank you for your email below regarding ... [family member] attending Loyola. ... [H]e has forwarded this information to ... [Vice President for Enrollment Management (VPEM)], and asked that ... [VPEM] personally review ... [family member]’s offer and respond to you. ...”

The VPEM responded to the Chancellor, EAP, and others, the following on the same day:

“... Interesting the student has actually already deposited with us. I will bring it to appeals tomorrow, but likely they have their final offer from us. Call me when you get a chance.”

A subsequent email, dated April 27, 2016, from the VPEM to the Chancellor and others, states:

“She has been awarded \$2000.00 form [sic] theatre and a \$1000 Jesuit Identity. ... [family member] should have a revised award letter within a couple of days.”

3. An email, dated April 28, 2016, from the Chancellor to the President of University of South Alabama, Subject: ...*[family member]’s decision*, states:

“... [M]other and I have to be somewhat conscious of costs. A number of private schools, including Loyola in New Orleans and couple in New York, have made [family member] generous and attractive offers ... If there is anything that you or others might be able to provide at this point, I believe it would confirm ... [family member]’s decision to attend South. ...

I know you must deal with these matters every day (I know I do – in fact I am interviewing 10 students today for 6 ‘ambassador’ scholarships – they help with me at events, stewardship, etc. and receive the in-state tuition rate in return) and that you always keep the best interest of your students and institution in mind – so I do apologize for putting another case on your desk. ...

Meanwhile, if I can ever be of assistance to you or anyone associated with South Alabama, I hope you will do me the honor of calling on me. ...”

An email response, dated May 2, 2016, from the President of South Alabama to the Chancellor, states:

“... I spoke with Christopher Lynch who is associate vice president for enrollment services about ... [family member]. He is looking

into your ... [family member]'s application and will determine if ... [family member] is eligible for some funding. I'll let you know when I hear from Christopher. ..."

In an email, dated April 30, 2016, the Chancellor forwarded his original email written to the President to the Executive Vice President, and said:

"... Hate to bother you but we can't seem to get any clarity for comparison purposes on what might be available at South ... Even if answer is 'no help' we could make the comparisons to others—I am trying to keep the 'South' option alive --any advice ... (Didn't know whether to send this to you but we are getting to decision time and have not heard with any clarity from South) ..."

The Executive Vice President responded by email on May 2, 2016:

"... Christopher is looking to see if there is a way he can help some with ... [family member]. He should have an answer this week. ..."

The Chancellor, responded to the Executive Vice President the same day, and said:

"Many thanks – the 'competition' has lined things out pretty clearly for her. ..."

A.C.A. § 21-8-304, *Prohibited Activities*, Item (a), states:

"No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law. ..."

Recommendation: IA recommends the ASU System President review and take appropriate action to remedy any noncompliance as noted in the occurrences.

Response: I concur with this recommendation and will act accordingly.

If you have any questions or desire further information regarding any aspect of the program review, please contact me.

cc: Board of Trustees
Ms. Julie Bates
Mr. Brad Phelps



Audit Report

Arkansas State University-Jonesboro EthicsPoint Case_31 Review

August 2016

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DATE: August 3, 2016
TO: Dr. Charles L. Welch, President
FROM: Jo LunBeck
Assistant Vice President for Administration
RE: Arkansas State University-Jonesboro EthicsPoint Case_31 Review

PURPOSE AND SCOPE

On April 8, 2016, Internal Audit (IA) received an anonymous hotline report, EthicsPoint Case_31 (Case 31) that relayed conflict of interest concerns for two Arkansas State University-Jonesboro (ASUJ) staff members: Dr. Tim Hudson, Chancellor (Chancellor), and Dr. Deidra Hudson, Director of Study Abroad (DSA). The purpose of this report is to furnish the Arkansas State University (ASU) System President with an assessment of the auditable concerns.

The initial scope of the review was defined as the period May 1, 2012, to May 31, 2016, except in cases where activities reviewed may have been documented at a date outside the defined scope. Information for the audit was obtained primarily through staff and faculty interviews, observations, examination of university account documents, and review of procedures deemed necessary to provide an analysis and comments concerning the following:

1. Compliance with Federal laws, State of Arkansas laws, and ASU policies, procedures, and guidelines;
2. Adequacy of documentation; and
3. Adequacy and application of accounting and operating controls.

Because the review was based on limited tests of university records and related procedures, not all instances of control weakness, noncompliance, or operational deficiencies may have been discovered. Any issues or comments on items necessary to be addressed are listed in the *Case 31 Management Assessment or Comments* sections of this report.

BACKGROUND

The background items presented below are limited to information that is considered relevant to this review.

Case 31

The general nature of the concerns reported in Case 31 were:

“It is great that you are auditing the payments to the Study Abroad site in Spain. However, when are you going to investigate the relationship between the Hudsons and the Rubios? Tim Hudson has hired Pablo Rubio, who is the son [sic] of Alphonso Rubio, the

person who brought us to Spain (btw, Alphonso was on his advisory board when Tim was at UHV, and there is some information that corruption between the two is by [sic] Tim was fired at UHV). It is a well known fact that the Hudsons have had free vacations to Spain on Alphonso. ...”

Chancellor

The Chancellor began employment with ASUJ on May 1, 2012, as a direct report of the ASU System President, Dr. Charles L. Welch. His office is located in the Administration Building on the ASUJ campus in Jonesboro, Arkansas.

Prior to joining ASUJ, the Chancellor’s past employment, as recorded on his Curriculum Vitae, included:

- Vice Chancellor at the Texas Tech University System from 2011 to 2012;
- Special Assistant to the Chancellor for International Programs and Initiatives - University of Houston System from 2010 to 2011;
- President of the University of Houston-Victoria from 2004 to 2010;
- Provost and Vice President for Academic Affairs at the University of Southern Mississippi from 2002 to 2004;
- Associate Vice President for Administrative Affairs and Dean of the College of International and Continuing Education and Professor of Economic Development, University of Mississippi from 1998 to 2002;
- Founding Dean, College of International and Continuing Education and Professor of Geography and Area Development, University of Southern Mississippi, from 1991 to 1998;
- Dean, Center for International Education and Associate Professor of Geography, University of Southern Mississippi, from 1987 to 1991;
- Associate Professor of Geography (tenured) and Development Officer, University of Southern Mississippi, from 1986 to 1987;
- Assistant Professor of Geography and Development Officer, University of Southern Mississippi, from 1985 to 1986;
- Analyst, Office of the Geographer, Bureau of Intelligence and Research, U.S. Department of State, Washington DC from 1983 to 1985; and
- Director, Master’s Program in Economic Development and Assistant Professor of Geography, University of Southern Mississippi, from 1981 to 1983; and
- Development Consultant, Mississippi Research and Development Center, Jackson, Mississippi, from 1979 to 1980.

The *Biography of the Chancellor*, located at www.astate.edu, states:

“... Preparing the next generation of leaders with a commitment toward a global mindset is a high priority for Hudson; significant growth in the university’s study abroad opportunities for A-State students is a result. ...”

DSA

The DSA is employed as an Hourly Non-Student Extra Help employee since May 1, 2013. The DSA initially reported directly to the Provost and Vice Chancellor for Academic Affairs and Research (Provost), Dr. Lynita Cooksey. The study abroad programs were transferred to the Office for Global Initiatives on April 1, 2015, and the DSA then reported to the Executive Director of Global Initiatives, Dr. Thilla Sivakumaran. The DSA is responsible for managing all logistical aspects of the study abroad programs and serves as the primary contact and source of information in the Office for Study Abroad for the programs.

The DSA is not required to complete an Appendix A – *Disclosure of Potential Conflict of Interest or Conflict of Commitment*. An email, dated June 30, 2016, from the Assistant Vice Chancellor for Human Resources (AVCHR) to IA, Subject: ...[DSA]’s *Conflict of Interest forms*, states:

“... as a part-time employee ... [DSA] is not required to complete the annual form. I do not have any copies on file. ...”

The Rubios

Dr. Alfonso Rubio, also known as (a.k.a.) Dr Alfonso Rubio Muñoz (Alfonso):

- Holds a doctorate in information science from Universidad Complutense de Madrid [University of Houston-Victoria (UHV) UHV NEWSWIRE dated July 30, 2009];
- Signed a Master of Business Administration certificate agreement with Hudson in 2005 to allow Spanish-based students to study a curriculum developed collaboratively by faculty in Victoria and Spain [UHV NEWSWIRE dated December 9, 2009];
- Elected as a UHV President’s Regional Board Member 2009-2012 [UHV NEWSWIRE dated July 30, 2009];
- Founder, President, Chief Executive Officer of Grupo Sense, an information, publishing and education conglomerate with offices throughout Europe, to which Multisense España, S.A. (Multisense) belongs [UHV NEWSWIRE dated July 30, 2009, and www.multisense.es]; and
- President of Multisense [Proposal to ASUJ dated March 28, 2016].

Mrs. Adela Diez (Adela):

- Alfonso’s wife [<https://rebeccaoliverhonors.wordpress.com/>];
- Pablo’s and Carlos’s Mother [<https://rebeccaoliverhonors.wordpress.com/>; Director of the Honors College (DHC) interview]; and
- Vice President of Grupo Sense, to which Multisense belongs [Letter to Chancellor dated June 1, 2012].

Mr. Pablo Rubio, a.k.a. Pablo Rubio Diez (Pablo):

- Alfonso’s and Adela’s son [DHC interview; Chancellor’s email dated October 27, 2015];
- Received Bachelor’s degree in Business Administration from Manchester Metropolitan University, United Kingdom in May 2009 [Resume on file with ASUJ Human Resources];
- Received Master’s in Marketing & Sales Management from ESIC Business School and Universidad Rey Juan Carlos I. Madrid, Spain in July 2010 [Resume on file with ASUJ Human Resources];
- Employed by Academic Partnerships (AP) from November 2013 to August 2015 in Dallas, TX, Spain [Resume on file with Human Resources]; and
- Employed by ASUJ from February 8, 2016, to July 8, 2016 [ASUJ Banner System-Human Resources].

Mr. Carlos Rubio Diez (Carlos):

- Alfonso’s and Adela’s son [<https://rebeccaoliverhonors.wordpress.com/>];
- Received Bachelor’s degree in Business Administration from Manchester Metropolitan University (2004-2007) [Linked in]; and
- Received MBA, Master of Business Administration Certificate, Blended Program from UHV (2007-2008) [Linked in].

In correspondence between the Chancellor, DSA, and the Rubios, they refer to each other affectionately using family references, e.g. brother, uncle, cousin, and family.

UHV

On April 22, 2016, IA contacted the University of Houston (UH) System Chief Audit Executive (CAE), who has been employed in the UH System Internal Audit Department (IAD) since October 1, 1987, to discuss the Case 31 UHV-related concerns. The CAE explained the UH System IAD had not received any assertions

regarding the Chancellor's relationship with Alfonso, who was a member of the UHV Advisory Board (PRAB) from 2009 to 2012. The CAE indicated the IAD had received a similar issue report related to the former UHV President's [current ASUJ Chancellor's] travel and found no wrongdoing.

An August 6, 2010, UHV NEWSWIRE article titled, *UHV President Tim Hudson to assume newly created post*, reported:

“... UHV President Tim Hudson has accepted a new challenge. He is stepping down as president to become Special Assistant to the Chancellor for International Programs and Initiatives. ...”

Based upon, the UH CAE's comments and the information reported in the UHV NEWSWIRE, dated August 6, 2010, IA took no further action on the Case 31 concerns related to UHV.

Multisense

Multisense, which belongs to Grupo Sense, is the third-party vendor procured for the ASUJ Lanjaron Study Abroad program. The Multisense Website “About Us” section, located at <http://www.multisense.es/about-us/>, states:

“Grupo Sense, formed over 30 years ago and to which Multisense España belongs, ... has also provided language training and education for thousands of students in the fields for which they offer services.

Over its three decades, Multisense has provided the necessary training and preparation for thousands of professionals who now occupy positions of great responsibility. ...

... Multisense was one of the first companies in the world to offer on-line teaching providing classes in technology to students in over 30 countries all over the world.

We offer our business and educational experience to students who wish to learn Spanish and become professionals within their chosen fields, be it in business, in the health industry, arts or any others. ...”

IA determined 6 Multisense invoices have been paid in 7 wire transfers from ASUJ to Multisense (in dollars):

18 students, 2 faculty, and 1 assistant; 13 weeks; 15 credit hours possible	
February 11, 2014	\$ 66,624.70
February 20, 2014	2,000.00
June 16, 2014	<u>15,334.01</u>
	\$ 83,958.71

12 students, 2 faculty, 1 assistant, and 1 chaperone; 12 weeks; 15 hours possible	
April 20, 2015	\$ 69,808.20
June 23, 2015	<u>2,261.04</u>
	\$ 72,069.24

20 students, 2 faculty (split-time), and 1 assistant; 12 weeks; 15 hours possible	
February 18, 2016	\$ 94,676.93
June 9, 2016	<u>8,091.17</u>
	\$102,768.10

The invoices were emailed to the DSA's private email account on two occasions:

- On January 23, 2014, one of the Multisense invoices for the first Lanjaron Study Abroad program was emailed from the DSA's private email to the DSA's work email; and
- On February 1, 2016, one of the invoices was emailed from Multisense to the DSA's private email, then forwarded to the Study Abroad Administrative Specialist II (SAASII) on February 2, 2016. The method of delivery for the remaining invoices received was not able to be determined.

The 2014 and 2015 invoices listed an apartment in Lanjaron as a part of the accommodation charges. The apartment was described by the faculty residents as being owned by Alfonso. IA was unable to determine the apartment portion of the total accommodation charge either year because the amount was aggregated with other Lanjaron locations listed on the invoice in the accommodations category, e.g. Hotel España, classroom, study area, etc. In 2015, at a faculty member's request, the DSA made arrangements for the faculty member to reside in an apartment, and the faculty member was instructed by the DSA to pay an additional 200€, or approximately \$226.06, upon arrival in Lanjaron. The additional amount paid was charged to cover the difference between the cost of the hotel room, provided for the faculty member by ASUJ, and the cost to rent Alfonso's apartment.

Documentation included with the DSA's Travel Authorization (TA) processed on January 31, 2014, indicates the DSA's expenses for lodging and meals for orientation week are included in the Multisense invoice. An email from the Executive Assistant to the Provost (EAP) to the SAASII, dated January 28, 2014, Subject: *Study Abroad Signed TA for Spain Trip*, states,

“The hotel, lodging and food is a part of the program fee which will be a direct bill. ...”

Because the Multisense bill is itemized in broad categories, the DSA's portion of the expenses could not be ascertained.

An email, dated February 18, 2015, from Alfonso to Marie Trudeau was then forwarded to the DSA. In the forwarded email, dated February 19, 2015, Alfonso states:

“Dear Dee Dee, ...

- 3) I would like to know how much you are planning to pay ... [chaperone], to make the necessary arrangements with Multisense to pay the resulting bill and also know how much work I can entrust her with, such as for instance:
 - a) Could she be the guide for the trip to La Alpujarra if I tell her which towns and activities to prepare?
 - b) Could she arrange to show some films through YouTube, with the projector, which could have a cultural interest for the program?
 - c) Will she meet with the students outside the scheduled classes in order to have them practice their Spanish with her?
 - d) What other activities could she prepare? ...

Alfonso”

The chaperone's spouse was a graduate assistant employed by ASUJ for the Lanjaron Study Abroad program; however, the chaperone had no recorded employment relationship with ASUJ. ASUJ Study

Abroad paid \$2,399.20 for the chaperone's and assistant's airfare. If salary expenses were billed to ASUJ by Multisense for the chaperone's employment, IA could not ascertain in what capacity she was employed or the amount of the salary because the Multisense bill is aggregated in broad categories with general descriptions, e.g. hiring or guide.

Pablo

Pablo assisted Alfonso, his dad, with the Lanjaron Study Abroad program that was provided by Multisense. On November 22, 2013, an email, dated November 15, 2013, was forwarded from the DSA to Pablo, Subject: *Spanish Instructors*, stated:

“... I hope that your trip home was uneventful ... We so enjoyed spending time with you.

To follow up on our conversation regarding Spanish language instructors, we would pay our instructors around \$5000.00 US dollars. I am not sure of the going rate in Spain.

We would need two individuals to teach language and culture approximately 2.5 hours per day Monday – Thursday for 11 weeks (or 44 days). The program dates are roughly February 2 – May 2.

It would be best if the instructor has a PhD or is currently working in this capacity at a university or in a language institute. ...”

A response emailed from Pablo to the DSA on the same date, stated:

“... About Lanjaron's [sic]: Thanks for that brief, I will make sure that those cv's selected will have meet [sic] those requirements you've pointed out.

Btw, about the over/night trips to Málaga and Córdoba I will be assisting my dad so that all gets planified [sic] to detail. ...”

The Chancellor endorsed Pablo's employment with a company doing business with ASU, involved him in fact-finding with a company potentially doing business with ASUJ, and eventually hired Pablo to work for ASUJ throughout the years 2013 through 2016.

In November 2013, the Chancellor negotiated with an individual on the behalf of Pablo to have consultant work with a company doing business with ASUJ, and he offered in-kind assistance by ASUJ.

An email sent Tuesday, November 5, 2013, from the Chancellor's Assistant to the DSA, Subject: *Wed. Dinner List*, includes the CEO of AP and Pablo as two of eleven guests for a dinner on Wednesday night.

An email, dated November 21, 2013, from the Chancellor to the CEO of AP, states:

“... Arkansas State is working on content for various certificates that can be offered online and in Latin America. We are keen to explore this 'next phase' of online education including the concept of target-language offerings at all levels, such as courses constituting an [sic] MBA and other degrees, and certificates in Spanish

... As I suggested when we spoke, I recommend that AP seek a short term consulting relationship with Pablo Rubio, who we both now know and who is generally open to this idea, to abet this process. Arkansas State can offer some in-kind assistance if you choose to make this investment. I believe his background and qualifications are suited to the task.

A framework and deliverables, all open to negotiation, are outlined below.

Pablo Rubio would agree to:

- a two month consulting internship with AP @ \$6000 per month (all to be paid by AP) plus round trip airfare Madrid/Dallas (start time could be negotiable; we would prefer that he begin here no later than mid-March).
- work from Dallas for one month (his housing, work space and tasks provided by AP).
- assign him to work from Arkansas State for one month (his housing, work space and tasks provided by ASU).

Deliverables include:

- develop a strategy to evolve current coaching/academic assistance models into a bi-lingual format
- assess current online products in light of Latin America/Spanish market
- assess viability of technology platforms to penetrate Latin America market
- assess relevancy of materials
- assess depth of market
- assess market strategies
- develop a plan to transfer Spanish language initiatives for other target languages such as Mandarin.”

An email, dated April 23, 2014, from Pablo to the DSA, states:

“... I will be working for AP for its business in Spain. ... In order for them to proceed with the payment of my salary Multisense Espana S.A will act as a contractor for the services I will provide AP with. The reason I chose to make it this way is mainly because I knew that Multisense was registered in the State as a contractor already, due to its business with ASU.

The version of the form that my parents have is not completely filled in and it is extremely important that I share exactly the same information contained in that document here in AP.

I would require you to send the document over to me. Is a form called *W 8BEN* which is a *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding*.

Obviously, I will make good and confidential use of it by only share [sic] with AP the information related to Multisense Espana. ...”

An email response from the Chancellor dated April 23, 2014, states:

“... Any forms Multi Sense [sic] filled out in order to contract with ASU are maintained in our procurement area; I doubt they are allowed to duplicate or transmit them--I have never heard of that happening.

This approach puzzles me: Did AP suggest this mechanism? If so, how did they know of our business with Multi Sense [sic]?

Overall, matters are complicated enough and I strongly suggest leaving anything to do with the ASU – Multi Sense [sic] relationship in Spain completely separate from AP. ‘All things international’ in public universities such as ASU are subject to routine independent audits in which any ‘deviations’ are viewed with suspicion. Of course, Multi Sense [sic] can supply AP with any documents it wants to and/or initiate new ones. ...”

Pablo’s resume indicates his employment with AP began in November 2013 and ended in August 2015.

An email, dated September 11, 2015, from the Chancellor to the AVCHR, Subject: *Interim/Visiting “chief of Staff”?*, states:

“... I am contemplating having someone in my CoS position (or maybe some other?) for a year or so who can help me ... I would need someone fluent in Spanish. Is it possible to bring in a foreign national on this basis. How best to proceed in your opinion. No rush but probably need to have a ‘plan’ anyway by end of month.
...”

On the same date, the AVCHR responded:

“... We can hire a foreign national. I would like to discuss the potential visa options. ...”

An email, dated September 29, 2015, from the Chancellor to the AVCHR, Subject; *CV Pablo Rubio*, states:

“... I have finished my informal conversations on the opportunity we have been discussing and believe that Pablo Rubio (like most Latin based names his LAST name – Rubio – is placed in the ‘middle’ sometimes) is best suited. Attached is his resume. His undergraduate degree is from UK and his masters from Spain. He has considerable computer marketing skills and background (even worked for AP in their Spain operations). ...”

An email, dated October 16, 2015, from the AVCHR to the Chancellor, asks:

“... [C]an you tell me what salary that you agreed on with Pablo Rubio? Did you have a specific Title that you wanted to use? ...”

The Chancellor responded the same day:

“\$70,000 (plus housing in U housing . . .); what about Coordinator of Special Projects or Assistant to the Chancellor . . .”

Although the hiring for the Coordinator of Special Projects was handled inconsistently with typical staff selections, the ASU System Associate General Counsel (AGC) advised that Higher Education is exempted from the *Arkansas Governor’s Executive Order 15-01* (Executive Order) and Office for Personnel Management (OPM) *Job Advertising Memo 7-16-15* (State Policy), that states:

“... All positions, regardless of their FLSA status, must be advertised for a minimum of five (5) business days before being filled. ...

However, the policy notes that State offices, departments, and agencies excluded from this Executive Order include:

3. Officers, employees, and academic personnel of State Institutions of Higher Education; ...

Any of these offices, departments, or agencies exempt from this Executive Order may voluntarily agree to be covered by the provisions of this Order. ...”

An email, dated July 6, 2016, from the AVCHR to IA, indicated ASUJ did not voluntarily agree to be covered by this Executive Order or State Policy.

Prior to Pablo’s Visa approval for employment with ASUJ, an email from the Chancellor to an international businessman, dated October 27, 2015, states,

“... We should talk soon about a possible relationship for the campus we are building ... Spanish language program ... We will have two choices: 1) operate a program ourselves or 2) sub-contract to you (or another supplier). ... I am going to hire a young man from Spain to help me (Alfonso Rubio’s son – but Alfonso himself has NO role in this project) since there is MUCH to do in the future ... IF you think it would be useful, I can have him visit with you in Spain. ...”

The international businessman responded on October 28, 2015:

“... I will be happy to ... manage the Spanish language centre! ...”

An email dated El 7 ene 2016, [Translation: January 7, 2016] from the Chancellor to the same international businessman, states:

“... Are you in Madrid? Spain?”

If so, I would like [sic] to meet briefly with a young man who will come to work for me next month to help manage the project in Mexico. A part of his duties will be to help us make strategic decisions about our Spanish language program – specifically, would it be best to do our own or to contract with a partner (Of course, I have you in mind for this option). ...”

In an email dated January 8, 2016, the international businessman responds:

“... I am in Madrid an [sic] happy to meet him! ... I will love to manage the Spanish centre in partnership with you! ...”

Furthermore, in an email dated the same day, the Chancellor, responds:

“... I am asking Pablo Rubio (I believe you might have met his father, now retired, Alfonso at one time) to meet with you at your convenience to simply initiate a dialogue with you on this matter. ... Also, as you know, you and I will negotiate privately any business arrangement that might develop. I think it could be helpful if Pablo and you spoke briefly so that he has a better understanding of the scope of your organization and the possible alternatives ...

... Currently, my tentative plans call for me to be in Spain in June of this year – perhaps we can meet then as well. ...”

On January 11, 2016, the AVCHR notified the Chancellor in an email:

“FYI – Pablo had his interview with the embassy officials and should receive his visa within the next two weeks. ...”

An email dated January 12, 2016, from the Chancellor to the AVCHR, states:

“Remind me of the working title we decided on (he will be doing MUCH more than just helping me with Mexico). ...”

The AVCHR later responded: “Coordinator of Special Projects.”

A forwarded email, dated January 13, 2016, from the Chancellor to Pablo, Subject: *118241*, states:

“... We will have someone meet you in Memphis on February 5. We will plan for you to stay at our home on the night of the 5th and then move into the apartment the following Saturday. The apartment will be fully furnished and equipped. ...”

The itinerary was for a round-trip ticket with the first flight from Madrid, Spain ending in Memphis, Tennessee (TN) on February 5, 2016. The return flight is from Memphis, TN ending in Madrid Spain on July 28, 2016. The cost of the ticket was \$1,193.66 and paid by ASUJ requisition from a carryforward account on February 23, 2016. Once IA provided the Vice Chancellor for Finance and Administration documents supporting the payment on July 8, 2016, the airfare was reimbursed to ASUJ from private funds on July 11, 2016.

Pablo met with the international businessman as the Chancellor had requested on January 14, 2016.

On February 10, 2016 an offer letter was approved for Pablo as Executive Assistant to the Chancellor, and the Chancellor was informed the offer was accepted by Pablo on February 11, 2016. Pablo’s salary was listed as \$70,000 with a start date of February 8, 2016.

When hired, Pablo was not required to complete an Appendix A. An email dated, April 29, 2016, from the AVCHR to IA, states:

“We have always held that the form is an annual form requirement that we complete in January. New hires after that point would complete the form within 12 months of employment ... If requested of an employee who began after 1/1 our response has always been that these individuals will complete in January. ...”

Note: Effective July 2016, ASUJ Human Resources has included the Appendix A in the employee new hire packet.

Based on a list provided by the Director of Residence Life to IA on May 3, 2016, Pablo was one of four employees provided free university housing through the Office of Residence Life during the period July 1, 2015, through May 3, 2016. The other three employees listed were required to live on campus as a condition of their employment as Area Coordinators.

The rent amount for Pablo’s free housing was not initially included as part of his taxable income by the Payroll Department. After being notified by IA, the AVCHR sent Pablo an email, dated May 5, 2016, that states:

“... the housing you receive as part of your compensation package is subject to taxation. Payroll will tax this benefit on a quarterly basis. ... You will be taxed on this amount on your May 15, 2016, payroll check. ...”

Pablo Rubio resigned from Arkansas State University effective July 8, 2016, (Attachment I).

CASE 31 MANAGEMENT ASSESSMENT

Approach

IA reviewed the following:

- Information gathered for ASUJ Study Abroad Special Review (SASR) related to Lanjaron study abroad program that is facilitated by Multisense;
- Multisense invoices for the Lanjaron study abroad program;
- Applicable employment records;
- Applicable travel documents;
- Various online material; and
- Public records.

Note: Because the Case 31 report was received during fieldwork for the ASUJ SASR, information was gathered that was common to both audits. The ASUJ SASR report was issued on July 25, 2016.

Results

During the review of the Case 31 concerns, IA noted the following instances of noncompliance with State of Arkansas regulations and ASU policies, procedures, and guidelines:

1. Statement of Financial Interest.

The Chancellor filed a *Statement of Financial Interest* with the State of Arkansas (Arkansas), Secretary of State, for calendar years 2012, 2013, and 2015; however, the Statement of Interest filed for calendar year 2012 did not include gifts and nongovernmental sources of payment related to a trip

to Spain from June 11, 2012, to June 22, 2012, as outlined in a letter from Adela, Vice President of Grupo Sense, to the Chancellor, dated June 1, 2012, that states:

“... On behalf of the Organizing Committee of the 9th Annual International Conference on Regional Development, CADE (Centro de Apoyo al Desarrollo Empresarial) y [sic] the sponsors of the conference such as Grupo Sense, I want to express my gratitude for your participation in this year’s event.

... Having an American scholar with your credentials ... has no doubt contributed to its growth and impact. ... These workshops will be attended by local officials as well as entrepreneurs and are a key element of the work of CADE, Grupo Sense and others in promulgating economic development in the area. ...

Fee Summary for ... [Chancellor]

Conference fee: (1750 Euro) waived as invited participant

Local Transportation Fee: (400 Euro) waived as invited participant

Workshop Fee: (various) all waived as conductor and invited participant”

The Chancellor traveled to Spain for the same purpose from June 9, 2014, to July 3, 2014. The State of Arkansas Secretary of State’s Website did not reflect a Statement of Interest as filed by the Chancellor for calendar year 2014. The Chancellor received timely notification of the required filing.

An email, dated January 19, 2015, from the AVCHR to a group of ASUJ employees, including the Chancellor, states:

“... The Arkansas Ethics Commission issued an opinion on February 17, 2012, identifying those persons required to file a Statement of Financial Interest with the Arkansas Secretary of State. As an individual in charge of departments or a division within the University and who is responsible for the administration of a departmental budget you are required to file a Statement of Financial Interest.

The Statement of Financial Interest must be filed with the Arkansas Secretary of State no later than January 31, 2015. Failure to file carries civil and criminal penalties. Filing of the Statement of Financial Interest is the responsibility of the individual employee. Please note, that Arkansas State University does not receive and will not maintain copies of the Statement of Financial Interest. ...”

The Arkansas Ethics Commission, Advisory Opinion No. 99-EC-018 (Issued October 22, 1999), states:

“... In Advisory Opinion No. 99-EC-007, the Commission opined that Ark. Code Ann. § 21-8-801(1) prohibits the receipt of a gift intended to reward a public servant for doing his or her job. The Commission noted, however, that said statute does not prohibit a public servant from receiving a gift conferred on account of a bona

fide personal, professional, or business relationship independent of his or her official status. ...

Because the value of the program exceeds one hundred dollars (\$100.00), the free participation would constitute a gift within the meaning of Ark. Code Ann. § 21-8-402(5). In accordance with Ark. Code Ann. § 21-8-701(d)(8), ... would need to report such participation as a gift on ... Statement of Financial Interest. ...”

Arkansas Code Annotated (A.C.A.) § 21-8-701, *Persons required to file – Exceptions – Contents*, states:

“(a) The following persons shall file a written statement of financial interest: ...

(4) An agency head, department director, or division director of state government or chief of staff or chief deputy of a constitutional officer, the Senate, or the House of Representatives; ...

(d) The statement of financial interest shall include the following: ...

(9) The source, date, description, and a reasonable estimate of the fair market value of each gift of more than one hundred dollars (\$100) received by the public servant or candidate or his or her spouse or more than two hundred fifty dollars (\$250) received by his or her dependent children; ...

(11) Each nongovernmental source of payment of the public servant’s expenses for food, lodging, or travel that bears a relationship to the public servant’s office when the public servant is appearing in his or her official capacity when the expenses incurred exceed one hundred fifty dollars (\$150). The public servant shall identify the name and business address of the person or organization paying the public servant’s expenses and the date, nature, and amount of that expenditure if not compensated by the entity for which the public servant serves; ...”

2. **Appendix A – Conflict of Interest or Conflict of Commitment.**

On the ASU *Appendix A, Disclosure of Potential Conflict of Interest or Conflict of Commitment* (Appendix A), filed with the ASUJ Human Resources Department, the Chancellor marked the following selection for each of the 5 calendar years beginning August 22, 2012, to the most recent dated January 27, 2016:

“... I have read the Arkansas State University System policy on conflict of interest or conflict of commitment, and I have no actual or potential conflicts, or the appearance thereof, to disclose. ...”

Each of the five Appendix A forms were signed by the Chancellor and signed as approved by the ASU System President.

The appearance of a potential conflict of interest exists in that the Chancellor’s Curriculum Vitae, listing ASUJ employment as of May 1, 2012, indicates he was a recent or current board member for Grupo Sense de Madrid, to which Multisense belongs, and Multisense is a third-party provider

for the Lanjaron Study Abroad program. Alfonso is the founder of Grupo Sense and is referenced in a recent proposal received by the Chancellor as the President for Multisense.

In early November 2012, the Chancellor sent the DHC and the chair of the Department of World Languages and Culture (CDWLC) on a week-long, fact-finding mission to Spain to explore the possibility of an ASUJ Lanjaron, Spain study-abroad program that was eventually provided by Multisense. The DHC and CDWLC were picked up at the airport in Madrid, Spain by Alfonso from Grupo Sense, to which Multisense belongs. Grupo Sense hosted the trip, and Alfonso arranged and took care of the Spain accommodations for the DHC and CDWLC, including lodging, meals, and local travel. The Chancellor's Office paid for the airfare and reimbursement for other miscellaneous expenses incurred.

Subsequently, Multisense became a third-party provider for the ASUJ Lanjaron Study Abroad program without the use of a competitively bid process that is detailed in the ASUJ SASR draft report issued July 25, 2016.

Because the Chancellor did not report on any of the ASU System Appendix A forms filed for the five calendar years, 2012 to 2016, the appearance of a potential conflict of interest, the ASU System Administration was not allowed the opportunity to determine whether an actual or potential conflict of interest or conflict of commitment existed and to evaluate the ramifications for the university. Therefore, the Chancellor did not receive express written permission to engage in activities that have the appearance of potentially benefiting others as required by the *ASU System Conflict of Interest or Conflict of Commitment Policy*.

The *ASU System Policy* (Effective 09/07/07 – Appendix A revised 09/25/09), Subject: *Conflict of Interest or Conflict of Commitment*, states:

“All full-time employees of Arkansas State University; whether administration, faculty, or staff, are obligated to devote their working time and efforts to university activities. . . . Participation in activities outside the university is encouraged so long as these activities do not create either a conflict of interest or a conflict of commitment.

Conflict of Interest. A conflict of interest exists when an employee has the opportunity, directly, or indirectly, to secure personal gain or financial benefit to self or others through influencing decisions of the university.

Conflict of Commitment. A conflict of commitment exists when an employee's time and effort to outside activities interferes with that employee's obligations and responsibilities to the university.

The Arkansas legislature has passed specific laws governing the actions of state employees with respect to ethical and employment conflicts of interest. Under those laws, conflicts of interest and conflicts of commitment are not always unethical or illegal. If the interests of the university are served by an arrangement in which the conflict of interest or conflict of commitment may exist, or if the conflict is insubstantial or remote, the university may allow the employee to participate in the outside activity but only after obtaining express written permission from the university.

Examples. The following list provides examples of situations which may involve conflicts of interest or conflict of commitment and must be disclosed. The list is not exhaustive. Any situation which has the appearance of or potential for a conflict of interest or conflict of commitment must be disclosed.

- Employee or immediate family member ownership, management, or other relationship with an organization doing business with the university; ...
- Acceptance of gifts, gratuities, or special favors offered because of university position; and/or
- Influencing university decisions or purchases to obtain personal benefit or benefit for others; ...

Disclosure. ... When an employee desires to participate in an activity in which a potential or actual conflict of interest or conflict of commitment exists, that employee shall complete the Disclosure of Conflict of Interest or Conflict of Commitment form and submit the form to the immediate supervisor. After consulting with the employee, determining whether an actual or potential conflict of interest or conflict of commitment exists, and considering the ramifications for the university, the supervisor will return a copy of the form to the employee within five (5) working days with a proposed approval, disapproval, or management plan. ...

No agreements may be entered into between university employees and outside entities until such time as approval has been given to engage in activities constituting a conflict of interest or conflict of commitment.”

3. **Prohibited Activities.**

The DSA attempted to use her official position to secure special privileges from an ASUJ third-party vendor when the DSA asked Alfonso, President of Multisense, to use his apartment for personal reasons. An email, dated February 5, 2016, from the DSA to Alfonso, Subject: *Lanjaron Apartment in June*, the DSA states:

“... The Hudsons are planning a trip to Spain for the Summer. I want to take the children to Lanjaron. Is your apartment free the nights of June 22 and 23? I know that the 23rd is El Noche de San Juan. I thought the children may like to enjoy the festival there.

Let me know if this is a possibility....”

On the same day, Alfonso responded to the DSA:

“... Mi casa es tu casa. Por el e-mail de Tim he creído o pensado que el 22 y 23 está¹/₂bais en Marbella. El apartamento está¹/₂ libre para vosotros esos d¹/₂as y siempre. ...”

[Translation] My house is your house. Email Tim I have believed or thought that the 22-23 est bais [sic] in Marbella. The apartment is free for you these days and always.

A.C.A. § 21-8-304, *Prohibited Activities*, Item (a), states:

“No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law. ...”

4. **ASU System Policy – Nepotism.**

The Chancellor violated the ASU System *Nepotism* policy when he restricted fiduciary discussions with Alfonso to himself and the DSA. These discussions took place despite the DSA reported directly to the Provost, and the ASU System Policy would not have allowed him to have any direct or indirect supervision over any employee to whom he is related by blood or marriage.

An email, dated November 22, 2013, from the Chancellor to the DSA, Subject: *Lanjaron*, states:

“I recommend that you establish a ‘regular’ time to talk to Spain/Alfonso/Pablo on this program – maybe once a week for a few minutes. You might want to bring in others as a ‘conference’. The only topic to ‘avoid’ IF you include others is the budgeting/invoicing issue which you and I will handle with Alfonso. ...”

The *ASU System Policy* (Effective May 15, 2009), Subject: *Nepotism*, Items 2 and 3, state, respectively:

“Arkansas State University System Nepotism Policy

No employee will have any direct or indirect supervision or direction over any employee to whom they are related by marriage or blood. No employee will participate in any peer judgment or administrative review of any employee to whom they are related by blood or marriage.

Exception

In some extraordinary and narrowly limited circumstances, it may be in the best interest of the system to allow an employee to hold a supervisory position notwithstanding the concurrent employment of a spouse or relative. In such cases, appointment to such a position is only available upon the prior recommendation of the president of the system and approval of the Board of Trustees. In such cases, with input from others within the unit, the campus chancellor and the administrative head of the service area shall develop written procedures to protect the employees involved, and the system, from the appearance of bias, prejudice, or favoritism.”

In summary, based upon ASU System Policy, the Chancellor engaged in conduct that warrants disciplinary review.

The *ASU System Staff Handbook*, Page 14 and 15, *Behaviors That May Result in Disciplinary Action*, states:

“Employees are prohibited from engaging in conduct listed below and may receive discipline up to and including termination for such behavior. This list has been established to serve as examples of behavior that could warrant a range of disciplinary sanctions and is not exclusive. Appropriate levels of discipline may be used based on the severity of employee behavior.

- Violating any System Policy set by the Board of Trustees or any operating procedure, rule, regulation, or guideline established by a campus; ...”

RECOMMENDATION and RESPONSE

Recommendation: IA recommends the ASU System President review, remediate, and administer corrective or disciplinary action as deemed appropriate for the noncompliance with State of Arkansas law and ASU policies, procedures, and guidelines.

Response: I concur with this recommendation and will act accordingly.

COMMENTS

During the review, IA discovered potential noncompliance with a State of Arkansas law not related to the concerns reported in Case 31 that is addressed in a separate memorandum to the ASU System President dated August 3, 2016.

The ASU System IA staff appreciates the cooperation, professional attitude, and prompt responsiveness of the faculty, and staff. If you have any questions or desire further information regarding any aspect of the program review, please contact me.

cc: Board of Trustees
Ms. Julie Bates
Mr. Brad Phelps

Attachment I

----- Original message -----

From: Pablo Rubio <pablorigio@astate.edu>

Date: 6/20/16 10:07 AM (GMT-06:00)

To: Tim Hudson <Tim.Hudson@astate.edu>

Cc: Lori Winn <lwinn@astate.edu>, Rick Stripling <ricks@astate.edu>

Subject: Thank you

Dr. Hudson,

Please accept this notice as my intention to leave my employment at ASU on July 8, 2016. I will vacate my apartment no later than that date.

At this juncture, I wish to return to Europe to pursue professional opportunities and to be near my growing family.

I want to thank you and everyone at A-State for the wonderful experience here and for all of the many kindnesses and assistance I received. I learned a great deal and trust my work has been useful. All of you will always have a supporter of the Red Wolves in Madrid.

Best wishes,

Pablo Rubio