

**From:** James E. Enstrom [mailto:jenstrom@ucla.edu]  
**Sent:** Thursday, April 05, 2007 12:35 PM  
**Subject:** Important Letter to UC Academic Assembly

April 5, 2007

**Subject: Appeal to UC Academic Assembly for Fair Consideration Regarding Action Item RE89 on Tobacco Industry Funding**

I am writing you regarding the UC Regents Action Item RE89 to ban tobacco industry funding at UC, as summarized in a January 26, 2007 *Science* news article (<http://scientificintegrityinstitute.org/Science012607.pdf>). UCSF Professor Stanton Glantz (Glantz) has repeatedly cited my May 17, 2003 *British Medical Journal (BMJ)* paper and my tobacco industry funding as a prime example to justify the proposed ban. Consequently, I want to refute misinformation that Glantz and other proponents have used to justify the ban.

In an RE89 presentation before the Regents on January 18, 2007, Glantz made misleading and erroneous charges about me and my research, particularly in his slides 11 and 12 (<http://www.universityofcalifornia.edu/senate/assembly/feb2007/Regents.tobacco.presentation.pdf>). These charges, excerpted primarily from the October 12, 2006 letter from American Cancer Society (ACS) CEO John Seffrin to the UC Regents, accused me of committing "scientific misconduct" (<http://scientificintegrityinstitute.org/SeffrinACS101206.pdf>). These charges were supported by materials described in a January 24, 2007 letter from ACS VP for Epidemiology Michael Thun (<http://scientificintegrityinstitute.org/ThunACS012407.tif>). I was not shown and was not given any opportunity to challenge these statements before they were sent to UC officials.

UCLA conducted a thorough investigation of the ACS "scientific misconduct" charges and completely exonerated me. A March 22, 2007 letter from UC Provost Wyatt Hume to Seffrin states unequivocally that the materials submitted to UC by the ACS "provide no evidence of scientific misconduct" (<http://scientificintegrityinstitute.org/HumeUCOP032207.pdf>). Michael Siegel, MD, of Boston University wrote a March 30, 2007 commentary entitled "Enstrom Cleared of Scientific Misconduct Charges; American Cancer Society Owes Him An Apology" (<http://tobaccoanalysis.blogspot.com/2007/03/enstrom-cleared-of-scientific.html>). His commentary states that "Dr. Enstrom is an individual and a scientist of the highest integrity." Siegel, who received training in tobacco control at UCSF from Glantz, now courageously speaks out against the unethical tactics employed by Glantz and advocacy organizations like the ACS. The tactics include the dissemination of erroneous information and a relentless mass media attack against me.

The above RE89 presentation represents only one example of the large scale, four-year

campaign of defamation against me and my *BMJ* paper conducted by Glantz. I will illustrate the campaign with three additional examples. First, before the press embargo for my *BMJ* paper lifted, Glantz staged a March 15, 2003 Miami press conference with a former US Surgeon General in order to debunk my “tobacco industry study” and to mockingly imply it found “marry a smoker, get less cancer.” Second, he co-authored an eight-page July 25, 2003 letter to the UC Vice Provost for Research advocating for a ban on tobacco industry funding at UC, in which he stated that my *BMJ* paper “would go down as one bit of poor research done at a university with a reputation for high quality scholarship that slipped into a good journal because of the foibles of the peer review process.” Third, during a March 8, 2005 KQED radio program discussing the issue of tobacco industry funding at UC, he called me “a damned fool” who “made inappropriate use” of ACS data and published a study that was “crap.” Glantz’s campaign, done with institutional support, has severely damaged my professional reputation and has infringed upon my academic freedom.

I have only recently had the opportunity to defend myself before UC officials regarding these unprofessional and fallacious claims. On March 6, 2007 I submitted the attached document to UC Regents Chairman Richard C. Blum defending my research and academic freedom at UC. This document presents my evidence supporting the following points: 1) my *BMJ* paper is valid and my findings are consistent with other US evidence; 2) my dealings with the ACS have always been proper and professional; 3) Glantz is violating the UCSF Campus Code of Conduct by making false and fabricated statements about me; 4) Glantz was directly or indirectly involved in the insertion, unknown to me, of my *BMJ* paper into the US Department of Justice RICO lawsuit against the tobacco industry, which is cited in RE89; 5) the advocacy activities of Glantz represent an abuse of power and interfere with my academic freedom and my professional career; and 6) the UC Regents and the Academic Assembly need to hear from all parties affected by RE89.

My tobacco industry funding has been entirely proper and has been used to conduct high quality, peer reviewed epidemiologic research on tobacco-related diseases that I would not otherwise have been able to conduct. My research has not been corrupted and my findings are not biased toward minimizing the dangers of tobacco. While my *BMJ* findings indicate that the relationship between passive smoking and mortality is weaker than generally believed, I have published other findings that indicate the increased mortality risk associated with active smoking is more permanent and less reversible by cessation than generally believed. Because Glantz and the ACS do not like these findings, they have attempted to discredit them by engaging in a massive *ad hominem* public attack on me. I have responded to this attack by presenting a 14,000 word defense of my *BMJ* paper on my own “Scientific Integrity Institute” website (<http://www.scientificintegrityinstitute.org/defense.html>). Also, I have prepared the attached March 6, 2007 document.

In your deliberations, I hope that you will seriously consider my rebuttal to the false charges against me and my work. The advocacy for the proposed ban since September 2006 has already restricted my academic freedom. Approval of the ban will permanently restrict the academic freedom of all UC investigators. Furthermore, approval of the ban

will endorse the abuse of power and character assassination tactics used against me. These same tactics can then be used against other faculty members who publish politically incorrect findings and/or who use politically incorrect funding sources. A ban on tobacco industry funding is unwarranted and counterproductive. Please send a strong message to the Regents in favor of academic freedom by rejecting a ban that, to my knowledge, has never before been implemented at any other entire university in the US.

Thank you very much for your consideration.

Best regards,

James E. Enstrom, Ph.D., M.P.H.  
University of California  
Box 951772  
Los Angeles, CA 90095-1772  
[http://www.cancer.mednet.ucla.edu/  
jenstrom@ucla.edu](http://www.cancer.mednet.ucla.edu/jenstrom@ucla.edu)  
(310) 825-2048

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## Defending My Research and Academic Freedom at the University of California

James E. Enstrom, Ph.D., M.P.H.  
University of California  
Box 951772  
Los Angeles, CA 90095-1772  
[jenstrom@ucla.edu](mailto:jenstrom@ucla.edu)

March 6, 2007

On January 18, 2007 the UC Regents discussed Action Item RE89 to ban tobacco industry funding at UC (<http://www.universityofcalifornia.edu/regents/regmeet/jan07/re89.pdf>). This discussion is summarized in the attached January 26, 2007 *Science* article (1) and in the Regents minutes (<http://www.universityofcalifornia.edu/regents/minutes/2007/fin17.pdf>). Because I was mentioned in this discussion, I have prepared this document in order to defend my research and academic freedom at UCLA. In particular, I have addressed statements made about my research in Action Item RE89 itself and in the presentation by UCSF Professor Stanton A. Glantz (Glantz) (<http://www.universityofcalifornia.edu/senate/assembly/feb2007/Regents.tobacco.presentation.pdf>).

Several libelous statements have been made by Glantz and the American Cancer Society (ACS) regarding the May 17, 2003 *British Medical Journal (BMJ)* paper that I wrote with Geoffrey C. Kabat, Ph.D. (<http://bmj.com/cgi/reprint/326/7398/1057.pdf>). I have responded to these statements in order to provide an accurate portrayal of my epidemiologic career at UCLA and my dealings with the ACS, both of which date back to 1973. My response addresses the essential aspects of six major issues, using four pages of text and eight numbered attachments. Additional details on these issues are provided in the weblinks shown and in my Scientific Integrity Institute defense (<http://scientificintegrityinstitute.org/defense.html>). To be sure that these complex issues are fully understood, I am willing to personally explain them further.

### 1) My May 17, 2003 *BMJ* paper (“the UCLA study”) is valid

- a. My *BMJ* paper on environmental tobacco smoke (ETS) and tobacco-related mortality is high quality epidemiologic research made possible because of the academic freedom that I have had at UCLA for the past 33 years. Contrary to the harsh criticisms by Glantz and the ACS, my paper is being accepted as accurate and important by an ever increasing number of informed readers, who have objectively evaluated it relative to other research on this subject.
- b. My *BMJ* results, which show that tobacco-related mortality has a very weak relationship to ETS but a very strong relationship to active smoking, have stood as correct since their publication. No errors in these results have been identified by anyone, including the ACS, which possesses the California Cancer Prevention Study (CA CPS I) data upon which they are based.
- c. My *BMJ* results are entirely consistent with those in the most detailed analysis of ACS data with regard to ETS and lung cancer, the 199-page 1995 Emory University dissertation by Victor M. Cardenas, M.D., Ph.D. The dissertation abstract states (on page viii): “This study found no

evidence of an association between self-reported ETS and lung cancer risk among nonsmokers. However, using spousal smoking habits to assess exposure, we found ETS is only weakly, and not statistically significantly, related to lung cancer risk among nonsmoking women in seven years of follow-up of the CPS II cohort.” (<http://legacy.library.ucsf.edu/tid/sqg22d00>).

d. My *BMJ* results are also consistent with those in the new Western New York State study published in the October 9, 2006 *Archives of Internal Medicine*, which found “After adjustment for covariates, exposure to secondhand smoke was not significantly associated with an increased risk of myocardial infarction.” (<http://archinte.ama-assn.org/cgi/content/abstract/166/18/1961>).

e. If all peer-reviewed epidemiologic evidence is fairly and fully evaluated, the relationship between ETS and lung cancer and coronary heart disease mortality in the US is very weak and is consistent with my findings. Kabat and I analyzed this evidence in our March 1, 2006 *Inhalation Toxicology* paper (<http://www.scientificintegrityinstitute.org/IT030106.pdf>).

## 2) My dealings with the ACS have always been proper and professional

My dealings with the ACS, which date back to 1973, have always been proper and professional. These dealings made it possible for me to obtain special access to the CA CPS I data in 1991. I have never committed any “scientific misconduct,” as suggested in recent ACS letters. John R. Seffrin, Ph.D., ACS Chief Executive Officer, wrote the attached October 12, 2006 letter to the UC Regents which implies “scientific misconduct” in my dealings with the ACS (2). Then Michael J. Thun, M.D., ACS Vice President for Epidemiology wrote the attached January 24, 2007 letter (3) in response to UC Provost Wyatt R. Hume’s January 19, 2007 request to Dr. Seffrin for “specific information in support of an allegation of scientific misconduct against Professor Enstrom.” In his attached February 12, 2007 letter to UC Regents Chairman Richard C. Blum, UC Academic Senate Chairman John Oakley has concluded that these two ACS letters do not contain evidence constituting a violation of the UC Faculty Code of Conduct (4).

Instead of providing evidence of scientific misconduct, the Seffrin and Thun letters make a number of false and/or misleading statements that I need to correct. The ACS has **never** funded any of my research involving the CA CPS I data that I received from them in 1991. The ACS has **never** put any restrictions on my funding sources in conjunction with my CA CPS I research. The ACS has **never** required me to inform them of my funding sources in general. However, I **did** inform the ACS of my 1998 award from the Center for Indoor Air Research, which was the tobacco industry funding I used for the research in my *BMJ* paper. The attached March 30, 1998 Thun letter to me confirms the disclosure of my funding: “I read over your correspondence to the Center for Indoor Air Research proposing additional follow-up in CPS-I and analyses of environmental tobacco smoke (ETS) in relation to lung cancer and heart disease. I am pleased that you have obtained funding for this additional work, but I am worried about the quality of CPS-I data for further studies of secondhand smoke. . . .” (5).

My attached April 10, 1998 letter to Thun addressed his concerns about the quality of the CA CPS I data (6). I again addressed his concerns in my 1999 CA CPS I questionnaire survey, in the peer review process for my *BMJ* paper, in the *BMJ* paper itself, in subsequent *BMJ* and *Lancet* letters, and in the 2006 *Inhalation Toxicology* paper cited above. I have **never** “ignored multiple

communications about fundamental methodological problems” and I have **never** had “several telephone conversations” with Thun in which he told me that the subject of ETS “could not be studied meaningfully” with the CA CPS I data. To substantiate these alleged communications, the ACS should produce their evidence. My records indicate that Thun has had no direct contact with me since 1998 and Seffrin has never had any direct contact with me. The ACS is very displeased with my *BMJ* paper and they are attempting to discredit it and me by implying that I have committed “scientific misconduct” without producing appropriate supporting evidence.

### **3) Evidence that the UCSF Campus Code of Conduct has not been properly enforced**

I have evidence indicating that the UCSF Campus Code of Conduct has not been properly enforced. On July 1, 2005 I filed a nine-page, single-spaced complaint of alleged scientific misconduct by Glantz and UCSF Professor Lisa A. Bero because of their extensive campaign of defamation against me, including their April 2005 *Tobacco Control* paper (<http://www.tobaccoscam.ucsf.edu/pdf/Enstrom-TC.pdf>). My complaint documented a clear pattern of scientific misconduct as defined by the Code of Conduct: “Misconduct in Science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research.” (<http://ucsfhr.ucsf.edu/files/finalcc.pdf>). My complaint is directly relevant to the University Policy on Integrity in Research, which is cited in the Action Item RE89 (<http://www.ucop.edu/ucophome/coordrev/policy/6-19-90.html>).

However, UCSF Associate Vice Chancellor, Academic Affairs Sally J. Marshall dismissed my complain in the two attached March 1, 2006 letters, which state "After consideration of the Ad Hoc Committee report, we have decided that no further action by the University is warranted." and "It should be emphasized that, according to University Policy, all those involved in these matters have the burden of confidentiality." (7). Since these letters contain no specific response to my detailed allegations of scientific misconduct, I asked UCSF Chancellor J. Michael Bishop in a February 26, 2007 email message if the full Ad Hoc Committee reports can be revealed to me and/or Regent Blum without the “serious legal implications” stated in the Marshall letters. The Regents should know precisely how UCSF handled my complaint and should determine if the UCSF Campus Code of Conduct was properly enforced in this instance.

### **4) Inappropriate insertion of *BMJ* paper into the US DOJ tobacco trial**

An important part of Action Item RE89 and the presentation by Glantz to justify implementation of a ban on tobacco industry funding at UC is based on the August 17, 2006 Kessler RICO decision following the US Department of Justice tobacco trial (Civil Action No. 99-2496 (GK)) (<http://www.dcd.uscourts.gov/opinions/2006/99-2496-082006a.pdf>). Because my *BMJ* study is mentioned throughout this decision (primarily on pages 1380-1384), the Regents should determine precisely how my study got inserted into the July 1, 2004 United States' Final Proposed Findings of Fact Civil 99-CV-02496 (GK), that was used in the September 2004 trial (<http://www.usdoj.gov/civil/cases/tobacco2/U.S.%20Final%20Proposed%20Findings%20of%20Fact%20REDACTED%20w%20BkMks%2020040701.pdf>). I believe that Glantz was involved in the insertion of my study into the above lawsuit and in the libelous characterization of it therein (<http://www.ucsf.edu/senate/townhallmeeting/dckessler-rico-uc.pdf>).

I base this belief on his extensive participation in previous tobacco lawsuits, his April 2005 *Tobacco Control* paper, my above scientific misconduct complaint, and the substantial information about the Kessler decision that Glantz provided former Regent Cruz M. Bustamante in September 2006 (<http://www.ucsf.edu/senate/townhallmeeting/Bustamante-Complete.pdf>). I am certain that the answer to the insertion is known to Glantz, Bero, Sharon Y. Eubanks (D.C. Bar No. 420147), Former Director, USDOJ Tobacco Litigation Team, and/or Stephen D. Brody (D.C. Bar No. 459263), Current Director, USDOJ Tobacco Litigation Team.

On February 1, 2007 I sent Jeffrey A. Blair, Esquire, of the Office of the General Counsel of The Regents a formal email request for assistance in determining the source of the above insertion. I pointed out to Mr. Blair similarities between the order and content of the text on pages 119-123 of the April 2005 *Tobacco Control* paper and pages 821-826 of July 1, 2004 United States' Final Proposed Findings of Fact. The Regents need to know that I did not learn of the insertion of my *BMJ* paper until after the September 2004 trial and I have never had an opportunity to refute the libelous characterization of my *BMJ* study in the Findings of Fact and the Kessler decision.

**5) The advocacy activities of Glantz are being used to interfere with my academic freedom**

Based on my understanding of the July 6, 2000 decision in "Californians for Scientific Integrity v. The Regents of the University of California" (Case No. C028522) (<http://www.law.com/regionals/ca/opinions/supremecourt/appeal00/c028522.html>), the California State Legislature has granted Glantz the right to use his UCSF faculty position to engage in advocacy activities that "promote a smoke-free environment." However, I contend that the way Glantz has used this right is inconsistent with UCSF Campus Code of Conduct and is an abuse of his faculty position. This contention is based in part upon my July 1, 2005 complaint of alleged scientific misconduct by Glantz as described above. Furthermore, I have evidence that Glantz has been interfering with my academic freedom and my ability to conduct research with which he disagrees. If Glantz has a special right to use his UCSF faculty position to engage in advocacy activities, then there must be a clarification this right cannot be used to restrict with the academic freedom of other UC faculty or to defame other UC faculty.

**6) The UC Regents need to hear from all parties affected by Action Item RE89**

In the interest of fairness and completeness, the UC Regents need to hear from all affected parties before a final vote is taken on Action Item RE89. First, it is important that all UC faculty who have received tobacco industry funding be given an opportunity to explain why they consider tobacco industry funding to be important, to demonstrate that they have conducted high quality research with this funding, and to refute the implication that they are part of an enterprise "to support a public deception" about tobacco products. This request has recently been made by a UC faculty member in the attached February 16, 2007 *Science* letter (8). Second, it is important that non-UC scientists who are included in the August 17, 2006 Kessler RICO decision and who are indirectly implicated in Action Item RE89 be given an opportunity to present material to the UC Regents in their defense. Specifically, this opportunity should be given to Geoffrey C. Kabat, Ph.D., co-author of my *BMJ* paper, and to Roger A. Jenkins, Ph.D., who has been harshly attacked in a December 2006 *Environmental Health Perspectives* paper by Glantz (<http://www.ehponline.org/members/2006/9385/9385.pdf>)

**Attachments (numbered in the order that they are cited):**

1. January 26, 2007 *Science* article "UC Balks at Campus-Wide Ban on Tobacco Money for Research" (2 pages) (<http://scientificintegrityinstitute.org/Science012607.pdf> or <http://www.sciencemag.org/cgi/reprint/315/5811/447a.pdf>)
2. October 12, 2006 Seffrin ACS letter to UC Regents (2 pages) (<http://scientificintegrityinstitute.org/SeffrinACS101206.pdf> or <http://mywebsite.register.com/db5/00424/academic-integrity.com/download/ACSNationalLetter10-12-06.pdf>)
3. January 24, 2007 Thun ACS letter to Hume (2 pages) (<http://scientificintegrityinstitute.org/ThunACS012407.tif>)
4. February 12, 2007 Oakley letter to Blum (3 pages)
5. March 30, 1998 Thun letter to Enstrom (2 pages)
6. April 10, 1998 Enstrom letter to Thun (2 pages)
7. March 1, 2006 Marshall letters to Enstrom (2 pages) (<http://scientificintegrityinstitute.org/MarshallGlantz030106.tif> and <http://scientificintegrityinstitute.org/MarshallBero030106.tif>)
8. February 16, 2007 *Science* letter "A Voice over the Smoke for Academic Freedom" (1 page) (<http://scientificintegrityinstitute.org/Science021607.tif> or <http://www.sciencemag.org/cgi/content/full/315/5814/937b>)