

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

RICHARD LOWERY,

Plaintiff,

v.

LILLIAN MILLS, in her official capacity as Dean of the McCombs School of Business at the University of Texas at Austin; ETHAN BURRIS, in his official capacity as Senior Associate Dean for Academic Affairs of the McCombs School of Business at the University of Texas-Austin; and CLEMENS SIJALM, in his official capacity as Finance Department Chair for the McCombs School of Business at the University of Texas-Austin,

Defendants.

Case No. 1:23-cv-129-DAE

DECLARATION OF RICHARD LOWERY
IN SUPPORT OF PLAINTIFF'S RESPONSE TO MOTION FOR A PROTECTIVE ORDER

I, Richard Lowery, declare the following:

1. I am an adult and competent to make this declaration. Its content is based on my personal knowledge, my conversations with Carlos Carvalho, or records that are in my possession or control.
2. I am a faculty member in the Finance Department at the McCombs School of Business at UT-Austin and a Senior Scholar at the Salem Center for Policy: an academic institute that is part of the McCombs School.

3. I am a colleague, research collaborator, and friend of Carlos Carvalho, another professor of business at the McCombs School, who serves as the Executive Director of the Salem Center. Due to our close relations, we communicate frequently about academic and non-academic matters.

4. Sometime in 2021 or 2022, Carlos spoke with me about a series of events that occurred during the 2020-2021 graduate admissions cycle for UT. In addition to narrating the following events, Carlos read aloud to me the relevant emails discussed below.

5. According to Carlos, in December 2020, Carlos received an email from UT President Jay Hartzell. This email came from Hartzell's UT account to Carlos' UT account. In the email, Hartzell attached the curriculum vitae for his son, Robert William Hartzell, but President Hartzell did not elaborate in the email why he had sent the curriculum vitae.

6. Carlos told me that, on or around the same day in December 2020, Nancy Brazzil, Deputy to President Hartzell, called him. Over the phone, Brazzil explained to Carlos that Robert Hartzell was applying for graduate admission to the UT Philosophy Department. Brazzil asked Carlos to inform the Philosophy Department that Robert was President Hartzell's son.

7. After this phone call, Carlos stated that he emailed Greg Salmieri, a senior scholar of philosophy at the Salem Center, about Robert Hartzell's application. Carlos told Salmieri who Robert was and forwarded along his curriculum vitae. Carlos sent this email through his personal Gmail account.

8. According to Carlos, Salmieri later sent a similar email about Robert and his curriculum vitae to Tara A. Smith, a professor of philosophy at UT who is not affiliated with the Salem Center. Salmieri sent this email through his UT account and CC'ed Carlos on the email.

9. Carlos said that if he were ever asked about these events at a deposition or in court, he would testify truthfully about what happened.

10. From personal knowledge, I know that Robert was later accepted to the philosophy graduate program and is currently a graduate student at UT.

11. Robert Hartzell's graduate student profile from the UT Philosophy Department's website available at <https://perma.cc/QQ93-RJ67>.

12. In June 2022, I published an article in the Washington Times, criticizing the use of affirmative action in admissions at UT and encouraging Texas citizens and politicians to intervene in university affairs "to demand fair admissions." In this article, I described how "self-interested administrators find themselves in the interesting position of working hard to disadvantage in the admissions process people with the same identity profile as their own children — though, of course, this disadvantage seldom reaches to their children themselves." And I asked my readers "Why are the presidents [of Texas' public universities] more scared of racist faculty than of their state government, which should be monitoring them to make sure [they] are focused on excellence and equal treatment of students?" Richard Lowery, *Perpetuating racism: Why universities insist on 'affirmative action*, THE WASHINGTON TIMES (June 28, 2022).

13. The article is publicly available at <http://bit.ly/3kKNBDl>. A true and correct copy of a print-out of that article was previously filed with this Court as Dkt. 8-7.

14. When I wrote this article, I had President Jay Hartzell in mind as an example of the category of administrator that I criticized.

15. I do not know if Jay Hartzell or another UT leader read this article and interpreted my words as a reference to Robert's admission to the Philosophy Department. But I would be surprised if Hartzell or someone close to Hartzell had not read it, because I believe that Jay Hartzell is very concerned about his public image and what people are saying about him. Hartzell and other UT leaders are aware that Carlos and I have a close relationship, so it is plausible that UT leaders realized that Carlos had told me about Robert's admission. The opinion piece I wrote also appeared approximately a month before Hartzell texted Mills and Burris and before Mills and Burris met to pressure Carlos into getting me to self-censor my speech. The article could well have been a factor in Hartzell wanting to silence me.

16. In addition, I consider this incident to be an example of Jay Hartzell's hypocrisy and lack of integrity. To the extent that Defendants take issue with my opinion calling Jay Hartzell a "liar," his seeking favorable treatment is an example of why I have that opinion, for hypocrisy is a form of lying.

17. And although I personally reject the CRT concept of "white privilege" I know that Hartzell, and people around him, have been proponents of DEI ideology


at UT. I think it is hypocritical that he would seek special, unearned privileges for his son in seeking admission at UT, while denying those benefits to other people's children.

18. To me, his hijacking of the Liberty Institute, his hypocrisy about DEI, and what Carlos told me he did regarding his son's admission to UT explain the basis of my opinion that Jay Hartzell is a liar, who lacks integrity.

19. He also uses other people to do his bidding. He used Carlos and me to secure \$6 million in funding from the legislature and then tasked his deputy, Richard Flores, with turning it into what became Civitas. He sent Nancy Brazzil to ask for Carlos to make sure that he passed on the message that Hartzell's son was applying to the philosophy graduate program, and when it came time to silence me, I believe that he sent Lillian Mills and Ethan Burris to pressure my friend and colleague.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this date, January 18, 2024.


Richard Lowery