

THE UNIVERSITY OF
ARIZONA
Department of Philosophy
P.O. BOX 210027
TUCSON, ARIZONA 85721
520 621 5045 PHONE

19 September 2023

An Open Letter to the University of Arizona Faculty Senate

On Monday September 11, 2023, David Gibbs, the Chair of the Ad hoc Committee on Donor Influence, presented a report dated April 11, 2023 to the Faculty Senate. In it, the committee outed me as the person hired with funds supplied by the Thomas W Smith Foundation. The body of the report redacted my name in this passage:

“TWS.Approves.XXXXXXX.doc.” 5 The document description again speaks for itself, and clearly shows that the Thomas W. Smith Foundation (“TWS”) gave permission for the hiring of XXXXXXXX. The attached document is an email from David Schmidt, with the following statement: “Jim Pierson from TWS [Thomas W. Smith Foundation] confirms that I have XXXXXXXX’s name by him (by phone, which explains why I have no record). And Jim’s OK with it.” 6 Again, this is donor approval for faculty hiring – i.e., inappropriate donor influence. (p.2)

But footnotes 5 and 6 supply links to information where my name clearly appears. Because I have been identified, I wish to reply to the specific contention that TWSF exercised inappropriate influence in hiring me. The charge from the committee expresses “concerns about the role of external donors in influencing the Freedom Center, in ways that go against widely accepted principles of academic autonomy” (p.1). My hire, it is claimed, is one of several instances “where external donors to the Freedom Center have been allowed to influence the hiring of faculty, thereby interfering with the academic autonomy of the academic units where they were appointed” (p.2). Nowhere in the document is there any specification of what the principles of academic autonomy are, nor what counts as inappropriate influence rather than influence that is not. But given the language quoted from page 2, it appears that the committee assumes that any influence would involve interference in the autonomy of an academic unit.

As to the matter of what “widely established principles of academic autonomy” might be at stake, since the committee supplies none, here is a plausible one:

No donor may be permitted veto power over a hire internal to an academic unit.

Does the committee supply any credible evidence of violation of this principle? Of course, TWSF *did* influence my hire. They supplied resources; without those resources there would have been no line to fill at all. That is influence. And apparently someone at TWSF did express approval of my hire. But autonomy is in no way thwarted merely by the fact that one has been influenced by another, nor by someone’s approving of one’s conduct. In his 2020 campaign for the presidency, Joe Biden’s case to the American public influenced me, both in the primaries and the general election. As a result, I voted for him. But I assure you no one from his campaign showed up at my house and issued any threats. My autonomy remained entirely unperturbed. Since Biden has been in office, I have approved of many of his policies while disapproving of a several. Were it that my approval and disapproval had the power to set US policy! Alas, it does not.

The committee’s evidence that TWSF exerted inappropriate influence over my hire in 2010 amounts to no more than a screenshot of a folder including a document labeled “...Approves...” They write, “The document description again speaks for itself, and clearly shows that the Thomas

W. Smith Foundation (“TWS”) *gave permission*” (p.2). Let me emphasize this. The evidence that the committee contends “speaks for itself” is not of *content* contained *in* the document. Rather, it is a word used to *label* the document. And here, the inference from approval to permission is gratuitous. Permission implies right of refusal—that is veto power. Mere approval does not. What further evidence is there? As is revealed in the email exchange between the Head of Philosophy in 2009, Chris Maloney, and then Director of the Freedom Center, David Schmitz, a representative of TWSF, Jim Pierson, reports that Thomas W Smith is “okay” with having selected me for a position that he funded. Again, let me emphasize the salient detail: What is reported is that Mr. Smith is okay with a certain candidate. Note that no right of refusal on Mr. Smith’s part is implied by this.

As it turns out, the most damning evidence that favors the committee’s indictment is left by the committee in a footnote rather than highlighted in its report. That footnote includes this remark by Maloney in the same email exchange:

Our TWS agreement requires that we extend an offer on the TWS position by July 1 and that prior to that we present the candidate's credentials to TWS. Will you be informing TWS today about McKenna?

One prepared to find guilty before being proven innocent will interpret this as proof of veto power, something that would conflict with my proposed principle. But is there any evidence to corroborate this? An innocent interpretation would have it that Maloney’s choice of the words “present” and “informing” presumes that there was no veto power. Rather, it is consistent with this evidence that the agreement was arranged in this way as a courtesy to a donor, one with whom the center and the university planned to maintain a relationship for future support. From the point of view of fundraising, this might after all just be a matter of good practice.¹

Note that Maloney’s language (“Our TWS agreement...”) suggests that the donor agreement was between the *Freedom Center* and the TWS Foundation. But it was not. He was referring to a donor agreement between TWSF and the *Arizona Board of Regents* (ABOR), as signed by President Robert N. Shelton. The agreement between these two parties reads:

Prior to the extension of any offer on this position, Professor Schmitz shall present the candidate’s credentials to TWSF. (p. 2)

Maloney was reminding Schmitz of their duties to act in accord with the conditions in *ABOR*’s agreement with TWSF—not the Freedom Center’s agreement with TWSF. Moreover, in this donor agreement, there is no further clarification specifying a right of refusal. *None*. Any such power in a document like this would not be left implicit but built unequivocally into the agreement itself. The donor agreement also includes the following language:

The interest of and benefit to TWSF is limited to the public at large of the research, scholarship, teaching, and service to be conducted in accord with this gift. TWSF acknowledges that it will have no right to direct such research, scholarship, teaching and service. Or to receive the benefits thereof, separate from what is set forth in this agreement. (p.3)

So, consider this. In the actual donor agreement, there is *no* explicit right of refusal allotted to TWSF, and there *is* an explicit denial that TWSF has a right to direct the professional conduct of the selected candidate. Moreover, *the donor agreement is not even between TWSF and the Freedom Center*. Yet the committee is prepared to use the mere labeling of a document, and a few incautiously interpreted details of an email exchange—from fourteen years ago—to cast

¹ Are there other such agreements with donors on our campus that have a similar arrangement? Did this ad hoc committee make any such inquiries? Should any other donor agreements arranged likewise also be investigated by the faculty senate? Will anyone hired in this way also be put on display as I have been?

doubt on the propriety of the Department of Philosophy's and the Freedom Center's decision to hire me. And this is to be used as a basis for a sanction of the Freedom Center?

The above, I take it, is sufficiently egregious for a fair-minded person to approach the committee's report with considerable skepticism. But there is more to be said. In its case for the impropriety pertaining to my hire, the document presented by the committee is as telling for what it omits as what it includes. Countervailing considerations are not even entertained. There is no introduction of evidence at all as to what process internal to the Philosophy Department was involved in vetting my dossier among other viable candidates. No one, such as the Philosophy Department Head in 2009, was consulted, nor was anyone on the search committee.

Nor is there any explanation of how hiring me fits into the narrative animating this document—that TWSF and the Koch machine are out to exert improper influence on higher education by dispensing libertarian and largely right leaning and conservative ideas. What of my own scholarly contributions? What of my teaching? How exactly do they fit into this scheme? Were that their game plan, the folks at TWSF would have to have been fools to have placed their thumbs on the scales in an effort to hire me, a lifelong lefty who's never once supported anyone other than a Democratic candidate on any national ballot, and whose work has nothing at all to do with the political sphere. Since I arrived at U of A in 2010, thirteen years ago now, I have published three books and thirty-eight articles, along with coediting two others. Not one of them has a single thing to do with any sort of libertarian or right-leaning agenda. Not a single syllabus or collection of assignments veers even close to a careful examination of libertarian or right-wing thought, let alone advocacy of it. Yet this does not weigh into any exploration of my hire at all.

As the committee sees it, my hire was part of a plan to exert disturbing ideological influence. The committee closes the section of their report titled "Donor Influence: Faculty Hiring" (pp.2-4) using *my* 2010 hire as one of four cases of supporting evidence, with the following statement:

Overall, the Freedom Center and PEMS represent a massive effort led by the Koch family to sway academia in a free market direction, with large sums of money. (p.4)

Nothing about my hire or all my hard work here at U of A supports this accusation. I respectfully ask the members of this ad hoc committee to report to the Faculty Senate which of my published words demonstrate that the TWS Foundation has corrupted my research. More generally, how has my research served the underhanded purpose the committee contends motivates this group of wealthy donors? Surely, they have read at least one of my publications before including me in this charge. Please point out how my teaching has done likewise. Which of my publications have the committee members read to corroborate their accusations? Which of my professional talks have they attended? Which syllabi have they examined? Which students have been interviewed?

These false claims made about me and the history of my hire are a threat to my professional reputation. They are as well an imposition on me insofar as I feel called upon to rebut them. As a result, they are impeding me from doing the work I am hired to do here at University of Arizona. David Gibbs, the Chair of this committee, has been relentless over several years now in his effort to spread these reckless accusations in the press and with the support of political organizations. That itself is objectionable, given how thin his evidence is and how great the risks are to me. (Am I simply to be regarded as unfortunate collateral damage?) But these current accusations rise to an entirely new level. This is no longer the press and a group of political activists. Now Gibbs and his fellow committee members are presenting these charges in my workplace through institutional structures sanctioned by the university faculty. Does the Faculty Senate really wish to support this sort of inquiry into members of its own faculty?

I cannot resist offering a more general observation about the implausibility of the most damning charge the committee has leveled against the Freedom Center. Using as evidence articles from the *Washington Post*, the *Guardian*, and *AZCentral* (p.4), as well as personal correspondence between Randy Kendrick and Charles Koch (p.5), they claim there is an effort by wealthy donors to undermine the autonomy of academic programs around the country. They write:

The Koch-led effort to exert *control* over academic activity – including at the University of Arizona’s Freedom Center—is troubling. (p.4).

From this, the committee infers that the Freedom Center has allowed itself to be objectionably shaped by these forces. Well, have they? Despite the sensational character of much of the reporting, I find some plausibility in the contention that a group of wealthy donors, perhaps led by Charles Koch, *do* wish to exert control over academic activity. I agree with the committee’s contention that this is troubling. Suppose these wealthy elite mean to exert control in ways that would unequivocally compromise the autonomy of academic units like the Freedom Center. Suppose that if they had their way, that is exactly what they would do. If this has been their plan all along, then the leadership of the Freedom Center over the last decade is not to be sanctioned, but, instead, to be congratulated for building a firewall around any such efforts.

If it was the goal of this powerful group of billionaires to turn the Freedom Center into a bastion of libertarian ideology, *they have utterly failed*. The Freedom Center’s core faculty contains considerable diversity. In fact, it has only ever had a *minority* of philosophers that could be characterized as libertarian, or more broadly classically liberal. Indeed, a recent hire that the committee also recklessly casts doubt upon was made because, with the departure of David Schmidtz, *there was no one left in the Freedom Center who specialized in libertarian or classical liberal thought*. Moreover, if one were to do an inventory of the Philosophy Department and Freedom Center colloquia, conferences, and workshops that have been funded by the Freedom Center, one would find a diversity of well-supported views from across the ideological spectrum. *Libertarian views would represent a minority*. The same applies to all the publications and professional talks of the core members of the Freedom Center.

In the committee’s zeal to discredit the Freedom Center as shills for Charles Koch and his allies, they have apparently invested *no effort at all* to sift through the history of the Freedom Center since 2010 or so to supply any proof whatsoever that in terms of actual intellectual output the center has allowed itself to become a place where billionaires pull the ideological strings. Rather, quite to the contrary, it seems that the Freedom Center has held true to a commitment to principles of ideological diversity and has done nothing more sinister than provide a venue where libertarian, classical liberal, or other conservative views can get a fair hearing. If one thinks of the clash of ideas in the academy as a place where tribalism rules, disdain for opposing ideas might lead one to adopt an adversarial stance against the Freedom Center. But if one values a free exchange of competing ideas, then the leftiest of lefties among us should warmly welcome their intellectual adversaries.

Our university is and has been facing all sorts of funding troubles, and it has become more difficult to sustain let alone enhance high quality programs. Our own Philosophy Department has been cut in half over the last decade from faculty losses that the administration has not had the resources to help us replace. Our national rankings have plummeted from being among the top dozen or so PhD programs in the world to the low twenties. Seeking outside funding is now often seen as a lifeline for programs, and the Freedom Center has sought such support wherein the Philosophy Department has often been the beneficiary. But the center has simply not done so by trading away their autonomy or their commitment to freedom of expression and celebration of a diversity of ideas critically examined. If in fact it has been the design of some donors to wrest control of their agenda, the Freedom Center has admirably protected the intellectual integrity and

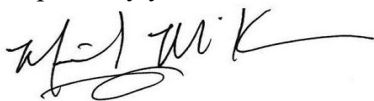
independence of the university while being appreciative recipients of private funds. A dispassionate and fair assessment of the history of the center bears this out.

In closing, I turn to the conduct of the Faculty Senate. How was this ad hoc committee formed? The chair appointed to this ad hoc committee, David Gibbs, has been a vocal critic of the Freedom Center for years. He has been in the press charging the center with corrupt practices. He has been an active member of a political organization, unKoch-my-campus, calling for the Center's removal from campus. He clearly has a settled view as to the legitimacy of the Freedom Center and the charges currently leveled against them. Why would any fair-minded representatives of Faculty Senate leadership appoint him to lead this committee? So far as I can tell, there was no one on the committee who was invested in giving those charged a fair hearing. If there had been, someone from the committee would have reached out to the leadership of the Freedom Center or the Philosophy Department. No one did. The document presented by the committee claims to offer an "an analysis" of questionable activity by the Freedom Center." But there is no analysis at all. There is nothing professional or scholarly about it. There are dubious interpretations of documents, appeals to fragments of email exchanges of the sort noted above, or unethically acquired drafts of conveniently curated snippets of departmental minutes. There is no entertaining of counterevidence, nor any effort to make inquiries with the representatives in the Freedom Center, the Philosophy Department, or those who handle donor contributions.

There was not even an attempt at an appearance of *procedural* impartiality. This document was dated April 11, 2023. Philosophy and the Freedom Center were informed by no one ahead of time that a report from this ad hoc committee was slated to be presented to the faculty senate on September 11, 2023. This appears more like an ambush and a smear campaign—a bit of academic guerilla warfare—than a dispassionate and fair assessment of concerns about improper donor influence. I was under the impression that the Faculty Senate was to represent the interests of *all* of its faculty. Presumably someone represents mine. How have my interests been represented?

This report was presented on September 11 without so much as an invitation for those charged to answer their accusers. As of the date I first drafted this letter, for the next meeting of the Faculty Senate, there had been a call for a vote of censure. Until some protested, there had not even been a request by the leadership of Faculty Senate for those in the Freedom Center or the Philosophy Department to reply to the charges of the ad hoc committee, nor apparently had there been a willingness to give them time to do so. The way in which the Faculty Senate has conducted itself here has all the appearance of using the machinery of faculty governance as a vehicle for permitting a political assault on members of its own faculty.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Michael McKenna". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael McKenna
Professor