

**OMITTED STATEMENTS OF LIBERTY UNIVERSITY REGARDING BUSINESS  
TRANSACTIONS RECENTLY QUESTIONED IN MEDIA**

The following document details information provided on the record to Politico freelance writer Brandon Ambrosino, Reuters reporter Aram Roston and Washington Post reporter Sarah Pulliam Bailey. All chose to not report Liberty University's side, leaving an unbalanced public narrative in place. To be fair, Liberty University is releasing this information on what would typically be private business matters to attempt to set the record straight. The various topics are covered individually in the following order.

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## **#1 CROSSWHITE FITNESS & ATHLETIC CLUB TRANSACTIONS**

### **STATEMENTS GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** In 2013, Liberty began renting space to Crosswhite for use as a fitness facility. Several years later, Liberty University made the decision to sell the facility to Crosswhite. The deal, according to an email I've reviewed from Randy Smith and the final contract, seemed like a very favorable deal for Crosswhite. As you know, he eventually got to buy the building for half of the cost because Liberty paid him an advance of about \$575,000. What was your involvement with this sale?

**FALWELL:** The premise of your question is wrong. Liberty was gifted an athletic club that was primarily a tennis club, but also featured a work out facility and pro shop. While our Division I tennis program benefited from indoor practice space, the facility was a drain on University resources that was disproportionate to its value. I wanted to reverse that and allow the University to get what it needed from the facility but eliminate the annual costs of maintenance, staffing and operations. Ben Crosswhite had been renting the work out portion of the facilities for his successful fitness and personal training business. He wanted to further expand so we conceived of a deal whereby he could take over the ownership and operation of the whole property but the University would retain rights to use the indoor tennis facility portion as needed for its tennis program. This retained use would be documented such that if the property was ever sold, the subsequent owners would have to continue to permit Liberty's tennis team's use without charge. Since Ben Crosswhite would not be receiving full use of the entire property and any subsequent sale would have to be discounted for the lost utility of the University's reserved court use, and because the University was not obligated to make rent payments for its use, Ben Crosswhite never received full value of the whole property and thus should not pay full price. The price was adjusted to recognize the diminished value of what was a primarily a tennis club without full use of the tennis courts. There was no cash advance to Ben Crosswhite for rent although for accounting purposes, that diminished value can be considered an advanced rental value.

### **STATEMENT GIVEN TO REUTERS AND AMBROSINO IN WRITING**

In 2011, Liberty University was gifted The Sports Racket, an athletic club at 118 David Cup Road that was primarily a tennis club, but also featured racquetball courts, a work out facility and pro shop. While our Division I tennis program benefited from indoor practice space, after several years, the old facility proved to be drain on University resources that was disproportionate to its value. The University desired to reverse that so as to allow the University to get what it needed from the facility but eliminate the annual costs of maintenance, staffing and operations.

Crosswhite Fitness, LLC, had been renting the work out portion of the facility for its successful fitness and personal training business. Crosswhite Fitness, LLC, was an entity

solely owned by Ben Crosswhite. With all the newer work out facilities on campus, students were not making much use of the work out facilities in The Sports Racket, so the lease to Crosswhite Fitness had been one way to defray the costs of operation and maintenance of the facility. But the facility was much larger than the work out facility and this rental income proved insufficient, as did the income from the limited number of tennis club members and pro shop sales. As a long-term tenant with ongoing business operations there, Crosswhite Fitness was the most viable purchaser. Anyone else who would buy a tennis club would expect to be able to rent the courts for the prime use periods that the University needed for its tennis team. And Crosswhite Fitness wanted to further expand its operations at the site.

So Randy Smith, Liberty's COO, conceived of a deal whereby the tenant could take over the ownership and operation of the whole property but the University would retain rights to use the indoor tennis facility portion as needed for its tennis program. This purchase was by Crosswhite Athletic Club, LLC, a new entity owned by Ben Crosswhite and his wife, Amanda. The retained use was documented such that if the property was ever sold by Crosswhite Athletic Club, LLC, the subsequent owners would have to continue to permit Liberty's tennis team's use without charge. Making the facility sale even less attractive, Liberty's use was irregular because it was seasonal, rendering tennis club memberships and court time harder to sell, a fact the University well understood since taking over the facility and seeing membership drop. Since Crosswhite Athletic Club would not be receiving full use of the entire property and any subsequent sale would have to be discounted for the lost utility of the University's reserved court use, and because the University would not be obligated to make rent payments for its use, Crosswhite Athletic Club never received full value of the whole property and thus should not pay a price that represented full value. The price was adjusted to recognize the diminished value of what was primarily a tennis club without full use of the tennis courts to the buyer. There was no cash advance to Crosswhite Athletic Club for that rent although, for accounting purposes, that diminished value can be considered an advanced rental value.

Crosswhite Athletic Club then expanded its indoor workout facility, more than tripling its size, with no financial assistance from Liberty University or anyone else, leaving operational funds depleted. However, roof leaks began to be a problem and due to its expansion costs, Crosswhite Athletic Club did not have funds on hand to address needed repairs to the roof and the indoor tennis courts. So, the University provided a \$75,000 credit line to Crosswhite Athletic Club to help pay for it to fix the roof and resurface the tennis courts promptly, tenant improvements that were necessary for NCAA caliber tennis courts.

Still later, Crosswhite Athletic Club desired to further expand the facility with the addition of an indoor pool and more locker rooms. Crosswhite Athletic Club secured a credit line from Bank of the James for approximately \$2 Million for that project. The amount of the credit line was not based on the then current value of the property but rather the value of the property after a new indoor pool was completed. As a condition of the new loan, Crosswhite and his wife executed personal guarantees, Crosswhite Athletic Club fully paid Liberty University all it owed on the original purchase price, and Crosswhite Athletic Club

subordinated Liberty University's repayment rights in the \$75,000 credit line to the bank's rights in the \$2 Million credit line. It is routine and commercially reasonable for the creditor with the least amount of risk to subordinate to the lender with the largest amount of risk.

Liberty has considered investments in other local businesses and start-ups that would help the University's business model and the local economy. Sometimes these are initiated by Liberty but most frequently they are pitched by local businessmen and entrepreneurs. The great majority of pitches do not result in deals. But a few do. On the other hand, Liberty University has one of the largest unrestricted endowments in the nation and frequently invests in hundreds, if not thousands, of companies across the world purely for the return on investment whether the company has any nexus to Liberty's mission or not. The same is true of every major university. Seasoned financial professionals in New York City make investment decisions for the university's multi-billion dollar endowment every day.

Regarding the relationship between the Falwells and Mr. Crosswhite, Mr. Crosswhite has been the personal trainer for Becki and Jerry Falwell for about seven years, working first under Crosswhite Fitness, LLC and then Crosswhite Athletic Club, LLC. They work out at the large gym about twice a week for an hour at a time. Jerry Falwell has also tried to be a business mentor to Mr. Crosswhite and offered him advice on his business plans. Becki and Jerry both like Ben and are proud of him as a Liberty alumnus who has successfully launched businesses in our region.

President Falwell's relationship with Ben Crosswhite did not cause him to lose his negotiation skills or abandon his fiduciary duties to enter into business and real estate deals in the interest of the University. Following the dramatic results of Mr. Crosswhite's training regimen with several high profile individuals, including President Falwell, several university administrators turned to him and other trainers in his business for personal fitness training. This fact also did not compromise the University's pursuit of a deal in its interests. The University no longer staffs and maintains an old tennis club and was able to sell it to the only likely purchaser of a tennis club who would be willing to forego court rental fees and the ability of members to use any indoor courts at the prime times when Liberty's tennis teams would need to fully utilize all courts.

When Liberty University's General Counsel noted in an email that, "Ben Crosswhite Ben Crosswhite enjoys a close working relationship with several LU administrators, including the President, so I suggest whatever course of action is taken, it is done cordially and professionally with knowledge ahead of time that it may be second guessed" he meant was that several LU administrators use Ben Crosswhite and the other trainers at Crosswhite Athletic Club for personal training services and if Mr. Crosswhite felt that the University was treating him harshly or unfairly, he might second guess the approach and would have several people with whom he could raise such concerns. Those people might ask for an explanation so it would be preferable to have an approach that was not only legally sound, but cordial, professional, and above reproach so it would withstand scrutiny.

Liberty University's Board of Trustees required President Falwell to obtain an annual executive physical over a two day period, which has always been performed in Miami. Mr. Crosswhite accompanied Mr. Falwell to Miami in 2013, the year after the dramatic weight loss, to explain to the doctors Mr. Falwell's diet and exercise program and help document the results. Since the Board requires the physicals, the University's charter plane is always used to travel for the physicals. This was the only trip that Mr. Crosswhite was on the University plane. Because the purpose of the trip was University business, he was not charged for the flight nor did Jerry Falwell reimburse the University for the cost of the flight.

**ADDITIONAL STATEMENT GIVEN TO AMBROSINO IN WRITING**

From: Smith, Randy  
Sent: Friday, September 6, 2019 4:11 PM  
To: Brandon Ambrosino <brandonambrosino@gmail.com>  
Subject: RE: POLITICO request for comment

Brandon,

Unless you are approaching this with some sort of pre-determined outcome, the transaction is very easy to understand. It is VERY common practice for the university to dispose of an asset that is in financial and operational distress, as well as an exposure to liability, especially if it can do it in a fashion that is advantageous to the university. To accomplish that while still making the facility available for the university to use is what most would consider to be a win-win situation.

The Sports Racket facility (which was donated to the university) had been operating in the red from the day the university took ownership. It was a membership driven indoor tennis club and the Liberty tennis teams used the facility to practice, as well as for competition. I believe we had been paying rent to a previous owner prior to the donation. As the facility continued to lose money, the university had a request from Ben Crosswhite for his personal training business, Crosswhite Fitness, LLC, to lease a portion of the facility to open a gym with personal training services. Although that rent provided some revenue, the facility continued to operate in the red and was quickly deteriorating.

The Vice-President of Auxiliary Services at that time, Lee Beaumont, came to me and said that he was having very significant HR issues with the employees who were working at this facility. The facility is located several miles from the campus which created an isolated environment for the employees there. Additionally, Lee pointed out to me that he was losing over \$100,000 per year in operations alone at the facility.

After assessing the situation, I surmised that:

1. Liberty had a rapidly depreciating asset that would need significant repair in the not too distant future.
2. The facility was losing over \$100,000 per year in operations alone, not to mention taxes, maintenance and repair, as well as future required upgrades.
3. The remote location of the facility provided an incubator where employee issues could fester without the knowledge of anyone at the university, creating unneeded exposure.
4. Other than seasonal use by the Liberty tennis teams, University students were making very limited use of the remote facility.

I delivered this information to President Falwell along with the recommendation that we devise a plan whereby Liberty could continue to use the facility for a number of years without losing money, while simultaneously developing a plan for building a new indoor tennis facility on or adjacent to campus. The university would need a number of years to do a capital campaign to raise the money, plan the new facility and then actually build it. Then, the university would need to dispose of this remote facility that it had been given.

I recall President Falwell responding with something like, "I don't think anyone will buy it. A previous owner tried to sell it for years and was never able to and then it was donated to us. Now from operating it we know it wouldn't sell because it loses money, even without having any debt service!" I told him I would work on a plan.

I came back to President Falwell a few days later with a rough draft of a plan whereby Liberty would dispose of the facility by making an offer to Crosswhite Fitness, the sole tenant at the facility, to purchase it. This would accomplish several things but had one predominant feature that would make it work: The tenant as the new owner could operate it with the existing staff that it had at Crosswhite Fitness, eliminating all of the personnel expense that the university encountered in running it. This alone should have put the operation in the black.

Knowing that Crosswhite Fitness's owner, Ben Crosswhite (who was a Liberty graduate) probably didn't have the financial wherewithal to make the purchase, I proposed that we offer to sell the facility at the assessed value of approximately \$1.2 million dollars and then rent court time for the tennis program for a set number of years until Liberty could build its own facility. When I proposed this to President Falwell, I recall him saying something along the lines of "...just don't do a deal with Ben that will sink his business. He's a good guy and I don't want to set him up for failure. No one else was able to make this place work and I'm not convinced that Ben will either."

Neither Ben nor his company were able to come up with the down payment or financing, but he was very excited about doing this deal. As he said, it was a dream of his to have a fitness facility of this size and he didn't see any other way that it would happen. I proposed that Liberty do seller financing for him at the market rate of about 3% at the time, at least long enough for him to get established and be able to obtain outside financing. I proposed

that the university commit to renting the courts from him for a number of years and we could pay that in the form of a credit at closing. The advance rental payment put the University less at risk. Paying in the form of a credit at closing kept the university from financing a larger amount than making cash rental payments to the buyer over time which then would need to be turned around in the form of partial loan payments from the buyer. The two simply washed out each other at the front end, allowing Liberty to lock in its rental rates for nine years. If the deal failed, at worst, the university would have to repossess the facility and just be right back where it started. These terms were agreed to and the sale was closed with Crosswhite Athletic Club, LLC, a company Ben owned with his wife Amanda Crosswhite.

Now, two years after the deal was struck, Crosswhite Athletic Club has obtained its own financing for the facility which allowed it to fully pay off the mortgage with Liberty University. Liberty now has no stake in the facility other than as a tenant for court rental. Meanwhile, Liberty has made great progress on the fund raising goal needed to build a new tennis facility on campus. Construction may even start within a year or so.

In summary, a donation which was made to Liberty University was actually costing the university hundreds of thousands of dollars. That money-losing asset has been turned into a \$1.2 million value to the university, some cash and some partial use rights in the indoor tennis courts. In the process, a young alumnus entrepreneur has launched a successful business and continues to grow the business. That is what I call a win for the university, a win for Ben Crosswhite and a win for the Liberty tennis teams.

To answer your question, yes, creative deals are commonplace at Liberty University.

By the way, give Robert Allbritton my best. He was my boss for 17 years and always complimented me on my creative business dealings.

Randy Smith

Executive Vice-President

Chief Operating Officer

rsmith108@liberty.edu

## **INTERVIEW STATEMENTS TO WASHINGTON POST**

**FALWELL:** Actually the poor trainer, we sold it to him for assessed value. Because we were losing money. Somebody had donated it to us. Our tennis team was using it. It was also built in the 1970s. And local people were members. And still are. And they played tennis there. But our tennis team has to take the prime afternoon times when the weather was bad, cold, or rainy. And we had to staff out there. We were losing money on it. We rented a little part of it to this kid who had just graduated. And he ran an exercise gym, paid rent for a few

years, but then he wanted to buy it. We thought, well we're losing money on it. My COO is actually, Scott I want you to send Sarah Randy Smith, the COO's statement that he sent to Brandon Ambrosino. But Brandon only used part of it.

Basically the whole sale was my COO's idea. He came back to me and said, "Let's sell it to him for assessed value." He said, "Let's retain the right to use the courts for our tennis teams, NCAA tennis teams, for nine years. And in return for that, we'll give him a credit against the sale price of a million-two." So he ended up paying about 640 thousand. He borrowed it at first, and then he'd pay us off in cash when he got a bank loan. And he works from 4:45 in the morning until 8:00 at night. He's got a wife and a little baby. I don't know how he does it. But he's somehow making it work. But I almost feel bad that we didn't charge him less. Nobody else wanted it. The roof was leaking. It needed lots of upgrades and maintenance. And it was a good deal for Liberty. And I'm thinking now maybe it was a little too good of a deal for Liberty.

**WASHPOST:** So you would, the article sort of hints you were maybe preferring him as a personal favor. But you're saying, "No."

**FALWELL:** I didn't even conceive the deal. I didn't negotiate it. I didn't even know what the terms were until my COO and he had agreed on them. And then came to me and said, "Is this okay?" And I approved it, because I thought it was a fair market value deal. We run everything squeaky clean. We have audits by big firms every year. We've never had a single finding in any of our financial aid audits, in any of our financial audits. I'm a lawyer. My dad was a big risk taker. If I hadn't been his attorney in the next office for 20 years, there were decisions that he would have made that would've put him in jail for bribery and for securities fraud. And I kept him from doing it because I inherited enough from my mother. She was a super conservative, risk-averse person. And I was a lawyer. And I inherited enough from her- Place couldn't have been built without his risk-taking, but I spent 20 years negotiating with creditors, restructuring debt, tried to avoid bankruptcies, and we did it successfully. But it was only because I got enough of my mom in me to be risk-averse. I didn't take chances like he did, and that's good now because we've got lots of money, and nobody but my dad could have built the place, but if I hadn't been somebody who was careful and squeaky clean on the rules and never crossed any lines... I talked to my lawyer every time I did anything in the political arena so as not to violate any 501c3 regulations for political activity. And that's the only reason Liberty is so successful. I couldn't have built it, but my dad couldn't have run it the way it is now.

## **#2 CONSTRUCTION MANAGEMENT ASSOCIATES TRANSACTIONS**

### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** Liberty gave a loan to Robert Moon to start CMA. Whose idea was that? Who made the final decision?

**FALWELL:** It was my idea to find a local company to act as Liberty's agent for construction management, essentially performing most of the tasks of a general contractor but on behalf of Liberty University as the owner, for many of the major construction projects for five years of peak activity at the University. When these tasks are performed by someone on the same side of the table as the owner, the risk calculation and profit motives change and millions of dollars can be saved. There was no such company but Bobby Moon, a local general contractor with decades of experience in large multi-story building projects, was able to put together a team of experienced professionals that had been running the construction work at the University of Virginia for Barton Malow. With the seed money Liberty University was able to loan to the new company (Construction Management Associates), coupled with the contract to do construction management work for five years, CMA was able to contract to secure the services of the team and pay employees and other expenses until CMA began receiving pay for the work it managed on behalf of Liberty University. While we engaged our team at Liberty to do the due diligence, and also employed experienced construction professionals to advise on the structure and terms of the deal, the ultimate decision to go forward was mine. The arrangement with CMA was not exclusive. Several other local construction companies that had longstanding relationships with Liberty University—some who even financed amounts due to their companies for construction performed at Liberty in decades when Liberty was struggling financially—were also brought in to construct many other large building projects during the same period. After the five years ended, we were able to conclude that the CMA contract was a tremendous success for Liberty. It allowed Liberty to have experienced major university construction professionals work alongside other local contractors as part of its team for a reasonable cost during an especially intense period of construction, as opposed to trying to attract and assemble such a team in house with no long term prospect for continued work.

**AMBROSINO:** Have you ever or do you in any way personally financially benefited from CMA's work? Has any member of the Falwell family?

**FALWELL:** No, I have not personally benefited financially from CMA's work for Liberty University nor has any member of my family.

**AMBROSINO:** Could you characterize your relationship with Bobby Moon?

**FALWELL:** Bobby Moon controls a business that acted as an agent for the university that I manage and currently acts as a contractor for that university. We are on friendly terms and have interacted socially from time to time but neither of us would list the other on their list of close friends and associates. It is by and far a business relationship.

**AMBROSINO:** Why did Moon go with you to Miami in 2014? I'm referring to the trip during which your picture was snapped at WALL nightclub.

**FALWELL:** Bobby Moon and his wife were in Miami at one point at the same time as Becki and me. I do not know the date. I have no knowledge of any picture of me at any nightclub or lounge in Miami and I have no recollection of ever visiting any such nightclub with the Moons. My purpose for meeting with Mr. Moon in Miami was to discuss LU construction business.

**AMBROSINO:** Were the contracts that were given to CMA ever no-bid contracts?

**FALWELL:** We checked with Branch Construction, English Construction and CMA to learn the percentage of the cost of work on projects that they would charge for the construction management services we wanted. CMA was the lowest, by far. So we negotiated the construction management deal with CMA. While this was not a formal bidding process, it did involve a market survey of rates followed by contract negotiations with the entity offering the lowest price. CMA's deal was not exclusive and we continued to use several other local firms but the other firms all did the work as independent general contractor at their higher rates, not as managing agents for Liberty University like CMA.

**AMBROSINO:** You characterize your relationship with the Moons as "arms-length." Based on social media posts, that seems inaccurate. How many times, for example, have you been on Bobby's boat with Bobby?

**FALWELL:** The premise for your question is incorrect, again. I believe I have been on Bobby Moon's ski boat about 5 or 6 times. These were during the summers of 2013 and 2014 when I was learning how to wake surf on the James River. His boat was specially equipped for that and it was a lot of fun. These afternoon outings did not cause me to lose my negotiation skills or abandon my fiduciary duties to enter into deals in the interest of the University.

### **#3 TREY FALWELL'S COMMERCIAL PROPERTY MANAGEMENT COMPANY TRANSACTION**

#### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** In emails, you said that Trey started a new company to manage Liberty properties. The first management company was JJFW; the second was JF Management. Does it further the mission of Liberty University to have the chancellor's son independently profit off of university-owned real estate? How, if so?

**FALWELL:** The Plaza was not a premium center like some others that Liberty owns. It was gifted to Liberty University in very rough condition. Frankly, there are fewer professional property managers who would be interested in running it for us. You see, The Plaza was more than  $\frac{3}{4}$  unoccupied at that time and compensation for property managers is based on percentages of rent collected. At the time, Trey Falwell was not an employee of Liberty University but was interested in acquiring experience in real estate management. He was willing for his company to perform the property management work at The Plaza at a market rate. His company did not perform services for any of our other centers where we used a variety of other vendors to manage. Liberty controls some eight shopping centers and the Mall, so we know the market rates for this type of work. Trey Falwell's company was paid fair market value for the work it provided. I didn't see anything wrong with that at the time and made no secret of it.

#### **INTERVIEW STATEMENTS TO WASHINGTON POST**

**FALWELL:** We had a distressed, blighted, shopping center donated to us in 2008. We couldn't get any of the major companies to manage it. So my son formed a company, rolled his sleeves up, charged the same rate that these big companies were charging us on the nice shopping centers that we owned in Lynchburg that are a part of our endowment. And he went in there and he and the broker from Richmond filled it up, made it profitable and he got the same percentage that all those other companies got that were managing the nice shopping centers—the mall and the two shopping centers next to Liberty—and it was all completely fair market value. If it hadn't been our auditors would have flagged it. And it is in our 990. His company did that. And there's nothing wrong with it, as long as he's charging fair market value, and I'm proud of him for doing it.

## **#4 PROTOTYPE MEDIA TRANSACTION**

### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** Why did Liberty University loan Josh Oppenheimer \$250,000 to start his company, Prototype Tourism?

**FALWELL:** Liberty University was presented a business plan from Josh Oppenheimer, a friendly supporter, to act quickly and take advantage of an opportunity to retain three experienced professionals who were recently let go from the local chamber of commerce when it lost its contract with the City of Lynchburg to promote local tourism. The business plan was to launch a new advertising and marketing agency with a decided emphasis on promotion of local destinations, events, attractions and other activities for visitors to the region. The professionals, who were readily employable in other markets (some already with offers), could remain in the area, the region would not lose their expertise and connections, and the new agency would be positioned favorably to provide support to compete for portions of the work that it was anticipated the City would soon outsource (e.g., creative retainer, state coach association tournament, kiosk management). With the credentials and experience of the creative team, the agency would also be poised to provide similar services to other cities and governmental entities. Additionally, the agency could provide website development, photography and other services typical of advertising agencies. Liberty University was not simply a lender, but was a minority investor in Prototype Tourism, LLC. The terms of the deal required Prototype Tourism to sign two promissory notes and agree to pay Liberty \$200,000. There was no loan to Josh Oppenheimer for \$250,000.

**AMBROSINO:** How was such a loan in support of the university's mission?

**FALWELL:** Liberty was concerned that the region was poised to lose outstanding regional promotional expertise just as it brought millions of dollars of new facilities on line, which facilities would support events for visitors to the region. Liberty was not sure how tourism promotion priorities would change with the City no longer trusting the chamber of commerce to run these operations. Liberty wanted to ensure that both it and others potentially left without a local promoter would have a competent and experienced agency to which they could turn. Raising awareness of Lynchburg translates into more users for Liberty's facilities, which provides income to offset their operational cost and raises Liberty's brand and campus exposure to more people, who will then return home and tell others about the wonderful surprises they found in Liberty's campus. Ultimately, well-supported tourism supports a successful region and its tax base, making Lynchburg an easier place to attract students and employees. Liberty has to attract more students and employees to Lynchburg each year than any other organization. Liberty also saw an opportunity to support its messaging efforts through a third party agency. Lastly, if the agency was successful, the investment would inure to University's endowment. All of these benefits would support the University's mission. Moreover, it is completely sensible for a

large University in a smaller region such as Lynchburg to be supportive of such efforts that support community success.

**AMBROSINO:** Is this a common practice by Liberty University?

**FALWELL:** Liberty has considered investments in other local start-up businesses that would help the University's business model and the local economy. Sometimes these are initiated by Liberty but most frequently they are pitched by local businessmen and entrepreneurs. The great majority of pitches do not result in deals. But a few do.

**AMBROSINO:** Who made the decision to loan Josh Oppenheimer \$250,000?

**FALWELL:** There was no loan to Josh Oppenheimer. There is not one person who made the decision regarding the investment in and loans of \$200,000 to Prototype Tourism. At that time, such investment proposals were vetted by a team of executives and subject matter experts gathered by then Vice President for Special Projects Chris Kennedy. The due diligence was performed by multiple individuals who discussed the pros and cons and the consensus was that it was worthwhile to proceed. In the end, I agreed with the recommendation and allowed the transaction to proceed. In hindsight, it was not a good decision.

**AMBROSINO:** How much of the loan has Oppenheimer paid back?

**FALWELL:** Again, this was not strictly a loan but a minority investment deal. And it was not to Oppenheimer, it was to Prototype Tourism, LLC. While there were some early successes and contracts won, the business plan of Prototype Tourism was not successfully executed in the end. It let its employees go, closed its offices and wound down, LU lost its investment and the loan portion of the deal was only partially paid back. The June 30, 2019 books reflect a balance on both notes of approximately \$274,825.48, which includes interest of \$78,665.99.

## #5 LU COMMENCEMENT TRUMP T-SHIRTS

### STATEMENT GIVEN TO AMBROSINO IN WRITING

**AMBROSINO:** In 2017, your wife, Becki, asked David Corry about selling merchandise at commencement branded with Liberty University and Trump's name. Is Becki typically involved in merchandising decisions with the university?

**FALWELL:** Like most university first ladies, Becki Falwell has a role in planning major events involving VIPs on campus. This includes certain Convocations and always includes a role on the commencement planning group. Liberty always sells commencement T-shirts. The year President Donald Trump came to Liberty, we wanted to explore offering a T-shirt featuring Donald Trump's name. Because of contractual rights and trademarks, such decisions involved legal matters and she discussed with David Corry, the University's General Counsel, questions regarding who would have rights to sell such shirts on campus and the process for getting consent from the Trump organization to use the Trump trademark with Liberty's trademark. These discussions were privileged and confidential so I am disappointed that someone would have shared them with you.

**AMBROSINO:** In an email at the time, Becki said that the merchandise would be "great advertising" for the school to be associated with Trump. Where do you see the line between LU promoting its beliefs and vision, versus LU aligning itself with certain political figures? Are you concerned that the school has ever crossed that line?

**FALWELL:** The line is drawn by federal law and Liberty University has not crossed the line. Liberty University has not and does not support candidates for public office. My endorsement of Donald Trump for US President was personal and not as President of Liberty University. After Donald Trump was elected, I was pleased he accepted our invitation to do his first commencement address as President, an honor all recent Presidents extended only to Notre Dame University. Your question suggests that Donald Trump benefits by this association. I think it's more the other way. Liberty University actually benefitted by having President Donald Trump speak at commencement and by associating his brand with the University's brand in a commemorative t-shirt. It was very popular and sold well. The commencement that year brought Liberty University unprecedented positive exposure. Because Donald Trump is conservative, there is a benefit for a conservative Christian school to be associated with him, so long as the association does not cross the legal line set by the federal government.

## **#6 LOCAL ELECTIONS AND STUDENT VOTING**

### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** In multiple emails, Jerry Falwell admitted to changing the academic calendar to make sure students were able to vote in the local election. In the same email thread, Falwell and other Liberty administrators were discussing a local News and Advance article that said the school's "overwhelmingly conservative" student body could swing elections to the right. Do you believe it violates nonprofit law to change a school's calendar in the hopes of forcing a specific electoral outcome? I know you have done this at least twice, according to emails I've seen. How common do you use your position as university president to influence political elections?

**FALWELL:** I do not recall these emails and you have not provided a copy. Efforts to increase voter turnout, even efforts to increase conservative voter turnout, are not violations of laws governing political activities of non-profits. In fact, the Obama Department of Education pushed colleges and universities to demonstrate ways that they promoted student voting participation and report on their efforts. I have been working on this for years, just as my father did. We have always challenged our Liberty students to be politically active. In addition to getting a polling precinct located on Liberty's campus to make it more convenient to vote, I also pushed back the academic calendar so that students would not be prevented from voting in local municipal elections that used to be scheduled after their spring term exams. They and their parents pay some of the highest taxes in the nation when it comes to the City meal and hotel taxes. It's only fair that they have some say about who is elected to represent them. I am open to hear other proposals to increase our student turnout. And I will always fight to keep them from being disenfranchised. If their votes influence political elections, I'm all for it. But I won't tell them who to vote for.

### **INTERVIEW STATEMENTS TO WASHINGTON POST**

**FALWELL:** That was thanks to President Obama. President Obama, for years our students were not allowed to vote locally. Even though Lynchburg has a... Virginia is unique in that it's the only state that has independent cities, and the counties that surround Lynchburg is where most of the people live who are more affluent, who come into the city and eat in restaurants and buy clothes at retail stores.

So the city is set up... A system where the meals tax and lodging tax is the highest in the country. Because we got all these Liberty people coming in staying in those hotels, and all these people in the counties don't get to vote in the city, coming in to eat. But until Obama got elected, college students couldn't vote where they went to school. But he changed the rules because he thought most college students would vote his way.

So we took advantage of that and we said "Okay, let's give our students a voice in these meals and lodgings taxes". And so we pushed them and pushed them and pushed them to register to vote. But, we didn't tell them how to vote, we just told them what was going on and getting the facts and said "Please register, please vote". They turned up in big numbers and they turned a couple of close elections. That's just plain old democracy. And I admit it and I am proud of it.

## **#7 ENDOWMENT REAL ESTATE INVESTMENTS**

### **INTERVIEW STATEMENTS TO WASHINGTON POST**

**Jerry Falwell:** We have over \$2billion in our endowment. About 10% of that is in real estate. 90% of it is in stocks and bonds, and various other investments. Of course we have lots of real estate, because that's just a smart way to invest and we have a sizeable endowment to invest. You diversify. You put some in real estate, put some in gold, you put some in stock, you put some in bonds. And that's what we've done. Every major university endowment has huge real estate holdings.

## **#8 LA QUINTA (STEERING LU BUSINESS)**

### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** Have you or Trey Falwell in any way ever financially benefited from Comeback Inn's business?

**FALWELL:** I have not financially benefitted from Comeback Inn's business and I have never owned any interest in Comeback Inn, LLC. I will let Trey Falwell respond separately on his own behalf if he has any comment regarding your question.

**AMBROSINO:** What is your relationship with Chris Doyle? You call him your business partner in a sworn affidavit. Do you ever profit from work that he does for Liberty University?

**FALWELL:** Chris Doyle is a real estate broker who works for companies that have performed services related to commercial real estate and property management for the University that I manage and its affiliates. Additionally, I am business partners with Chris Doyle on one small strip shopping center. That investment pre-dates my tenure as President of Liberty University. I have never profited from the work Chris Doyle or any of his companies has done for Liberty University.

## **#9 BOARD OF TRUSTEES CONFIDENTIALITY**

### **STATEMENT GIVEN TO AMBROSINO IN WRITING**

**AMBROSINO:** Several sources tell me you have required board members and other key employees to sign NDAs. Nonprofit experts I've consulted told me that is highly unusual for a nonprofit. Why do you ask Trustees and other key employees to sign NDAs?

**FALWELL:** In 2009, our auditors recommended that we formalize our conflicts of interest policies to be clear that they applied to member of the Board of Trustees. As part of that process, there were discussions about how trustees have a great deal of financial, strategic and other proprietary information concerning the operations of Liberty University. As Liberty's financial success increased, other institutions were taking note and were contacting leaders for inside information, which could damage Liberty University competitively. So when the Conflict of Interest policy was adopted in November of 2009, the Board also voted to require its members to execute confidentiality agreements. Additionally, certain key employees in the highly competitive online program and admissions have been required to sign confidentiality agreements as a condition of employment. In my experience, organizations with competitive advantages regularly use these agreements and it is not at all unusual.

**AMBROSINO:** I've recently heard from sources that Liberty's general counsel has reached out to former employees to remind that they must "forever observe the strictest secrecy on what they learn about Liberty University's students, its transactions, its concerns," and that "Virginia law imposes upon Trustees a common law duty of loyalty preventing them from acting adversely toward the University." What prompted the general counsel to send out this communication?

**FALWELL:** You have obviously read the email. Again, I am disappointed that anyone would share it. But the email explains why I asked our general counsel to send it out to former board members, some of whom are also former employees. No one who read it should have any doubt as to why it was sent. It came to my attention from several former board members that a reporter was contacting them for negative information about Liberty University. Some of those who were contacted were curious as to their obligations in responding so I asked my general counsel to research the legal obligations and send the email.