

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

SHAW ALUMNI AND FRIENDS, INC by)
it's PRESIDENT and ALUMNUS,)
CAROL HOLLOWAY, EMILY PERRY,)
and EUGENE MYRICK)

Plaintiffs,)

v.)

) COMPLAINT

) (Jury Trial Demanded)

JOSEPH N. BELL, JR., CHAIRMAN OF)
THE BOARD OF TRUSTEES OF SHAW)
UNIVERSITY; AND WILLIE E. GARY,)
BOARD MEMBER AND IMMEDIATE)
PAST CHAIRMAN OF THE BOARD OF)
TRUSTEES OF SHAW UNIVERSITY.)

Defendants.)

NOW COMES PLAINTIFFS, SHAW ALUMNI AND FRIENDS, INC, ITS
PRESIDENT AND ALUMNUS, CAROL HOLLOWAY, EMILY PERRY,
AND EUGENE MYRICK, by and through their attorney, Christopher M.
Young and allege the following:

INTRODUCTION

1. In 1865 Henry Martin Tupper founded Shaw University in Raleigh,

North Carolina; it is the oldest Historically Black University in the south and one of the oldest in the nation. It is a private, coeducational, liberal arts institution of higher education with its main campus still located in Raleigh, North Carolina and several satellite campuses dispersed throughout the state.

2. The mission of Shaw University is to advance knowledge, facilitate student learning and achievement, to enhance the spiritual and ethical values of its students, and to transform a diverse community of learners into future global leaders, by providing quality educational programs and services to students that prepare graduates to lead productive lives and successful professional careers as citizens in a globally competitive society.
3. The Shaw University Board of Trustees should consist of 37 voting members plus Trustees Emeriti and other members as necessary. Membership is to be arranged in three categories. Category I should consist of thirty (30) members. Members in category one shall serve of three years and may not serve more than three (3) consecutive terms, but may be eligible for reelection after being off the Board for one year. The one year wait period can be waived only if a trustee is an officer of the board, nominated by the trusteeship committee and

receives three fourths (3/4) vote from the trustees; or if there is a special initiative or program of great significance to the university and the loss of the trustee would significantly impact its completion, then that trustee upon nomination by the trusteeship committee and upon three fourths (3/4) may be elected to serve additional terms without waiting for the expiration of a year. Category II shall consist of seven (7) members. They shall be the President of Shaw University National Alumni Association, the President and Executive Secretary-Treasurer of the General Baptist State Convention of North Carolina, Inc., the President and Executive-Secretary Treasurer of the Woman's Baptist Home and Foreign Mission Convention of North Carolina, the President of the Shaw University Student Government Association (SGA), and the President of the Faculty Senate. These members serve the length of time for which they have been elected. Category III consists of dignitaries whose presence will add prestige and status and enhance the mission of the University. These members have a voice but do not have voting power and are not required to attend all meetings.

PARTIES

4. Plaintiff, SHAW ALUMNUS AND FRIENDS, INCORPORATED, is

an organization incorporated within the state of North Carolina made up of past students of Shaw University, which was formed for the purpose of awarding scholarships to students of Shaw University students upon being shown a need, and challenging the breach of contract, inequitable findings, and unfair practices that have caused a financial crisis of Shaw University under the leadership of Chairman JOSEPH N. BELL, Jr. and immediate past Chairman WILLIE E. GARY.

5. Plaintiffs, CAROL HOLLOWAY, EMILY PERRY and EUGENE MYRICK are all former students of Shaw University and are all residents of the State of North Carolina with Perry residing in Rowan County and Holloway and Myrick residing in Wake County. All Plaintiffs are now, or have been, members and or Officers of both local and national alumni associations for Shaw University. When calculated together, Plaintiffs have donated well into the six-figures to Shaw University.
6. All of the Plaintiffs are members of SHAW ALUMNUS AND FRIENDS, Inc., for the sole purpose of awarding scholarships to Shaw University students upon being shown a need, and challenging the breach of contract, inequitable findings, and unfair practices that

have caused a financial crisis for their beloved university by the Board of Trustees, specifically the Chairman of the Board and the immediate Past Chairman of the Board.

7. Plaintiffs bring this lawsuit individually and in their representative capacities as members of SHAW ALUMNUS AND FRIENDS, Inc., and as representative members of all individually situated persons both known and unknown.
8. Defendant JOSEPH N. BELL, Jr. is the Chairman of the Board of Trustees of Shaw University. Chairman Bell has held this position since 2012 when he succeeded then Chairman, WILLIE E. GARY. Per the Trustee Manual, the Chairman of the Board shall preside at all meetings of the Board and shall discharge the duties, which ordinarily pertain to that office.
9. Defendant WILLIE E. GARY is the immediate Past Chairman of the Board of Trustees. Upon information and belief, Mr. Gary held the position of Chairman of the Board for upwards of fifteen (15) years.
10. SHAW UNIVERSITY is not a named party in this lawsuit. However, the wellbeing and future sustainability of this one hundred and fifty (150) year old institution is the focus of this lawsuit.

JURISDICTION AND VENUE

11. The Court has original Subject Matter Jurisdiction over this action pursuant to Title 28 U.S.C. §1332 which vests in the District Courts original jurisdiction over all civil actions when there is complete diversity of citizenship among the parties and the amount in controversy exceeds Seventy Five Thousand Dollars and 00/100 (\$75,000.00).
12. Venue lies in the Eastern District of North Carolina because a substantial part of the events giving rise to the Plaintiffs' claims occurred in the County of Wake, State of North Carolina where Shaw University is located.

FACTUAL ALLEGATIONS

I. Board of Trustees Duties

13. As stated in the University's Trustee Manual, the Trustees are final legal authority in the decision making and ultimate success of the institution, it is imperative that they are well informed of their obligations and responsibilities.
14. The Board of Trustees serves as a court of final appeals for the institution.
15. The Institutional Goals for the University between 2010-2015

include:

- a. Creating Financial Stability and Growth
 - b. Enhancing Student Success and Competitive Edge
 - c. Building Institutional Capacity to Support Teaching, Research and Service
 - d. Creating Innovation and Development in Post Secondary Education
 - e. Enhancing Community Engagement and Service
16. Trustees volunteering time and effort should be dedicated to fulfilling their moral and legal obligation to the institution.
 17. Trustees should see that all funds and properties of the institution are maintained through a sound fiscal management system.
 18. Trustees should assure the financial resources to support adequately the institutional mission and goals.
 19. Trustees should maintain and grow a viable endowment fund.
 20. Trustees should maintain cooperative relationships with alumni.
 21. The Board of Trustees is tasked with electing and annually evaluates the President of the University.

II. Chairman of the Board Duties

22. The Chairman of the Board shall be elected biennially for a two-year

term by the Board from Category I.

23. The Chairman of the Board shall preside at the meetings of the Board and shall discharge the duties, which ordinarily pertain to that office.
24. The Chairman of the Board, by written request through the Secretary of the Board has the authority to call special meetings.
25. The Chairman of the Board has the authority to authorize members of the Board to speak for the Board.
26. The Chairman of the Board shall appoint biennially the members of the nine (9) various standing committees. Each committee should have a Chairman and a recorder.
27. The Chairman of the Board, himself, shall be the Chairman of the Executive Committee.
28. The Executive Committee, led by the Chairman of the Board, has the authority to evaluate the president and recommend to the Board presidential compensation.

III. Presidential Search(s)

29. The President of Shaw University shall be elected by the Board of Trustees to serve at the will and pleasure of the Board of Trustees, and he or she shall be responsible to the Board of Trustees for the proper, faithful and efficient administration of the business affairs of the

- University, fiscal, educational, and otherwise, in accordance with the rules, regulations, orders and directions adopted and issued from time to time by the Board of Trustees, or by the Executive Committee during the interim between meetings of the Board.
30. When selecting a President the Board is to use the Presidential Selection Criteria provided in the Board of Trustee Manual.
 31. In the past ten (10) years the University has had five (5) Presidents, including interims with one sitting for two separate terms.
 32. The University's 2010 IRS 990 Form shows that in 2010, though in financial crisis, the University was paying four (4) Presidents.
 33. In the year of 2013, with an Interim President sitting, the University conducted a Presidential search.
 34. In June 2014, the University was expected to announce Dr. Andrew Honeycutt, President of Anaheim University, an online University as the 17th President of Shaw University.
 35. There were questions surrounding the hiring of Dr. Honeycutt as well as the search process that was used to identify him as a viable candidate.
 36. Along with a Chairman appointed search committee, H.E.A.L. Global Consulting, a Georgia based company served as the executive search

- firm. Upon information and belief this was the first time that H.E.A. L. been selected to take on such a task.
37. Numerous news outlets, including the Raleigh News and Observer as well as the HBCU Digest reported that questions loomed around the selection of Dr. Honeycutt as well as the executive search firm that was hired.
 38. On June 26, 2014 the Board of Trustees held a special meeting to discuss the appointment of Dr. Honeycutt. However, after much debate about the hiring of the search firm and the selection of Dr. Honeycutt the recommendation to appoint Dr. Honeycutt was rejected.
 39. Later in June of 2014, Dr. Honeycutt contacted members of the National Alumni Association (NAA) to share his confusion. An unnamed Executive Committee member told him after meeting with the Board of Trustees on May 31st that he would be the next President of Shaw University and that he should prepare to move to North Carolina.
 40. Dr. Honeycutt provided a copy of his contract to members of the National Alumni Association.
 41. In 2015, another Presidential search committee was formed. This

committee consisted of Chairman Bell, and two other Executive Committee members, Maria Spaulding, and John Lucas.

42. Upon information and belief there was no executive search firm used.
43. The search process was again criticized. However, this time from inside the Board of Trustees.
44. Members of the Executive Committee had issue with only three members having access to the Presidential search results. As well as the process as a whole, including the voting due to the negative exposure that the school received in the 2014 search.
45. Alumni unsuccessfully petitioned Chairman Bell and the Board for clarity of the process and answers to no avail.
46. On June 1, 2015 Dr. Tashni Dubroy was selected as the University's new President.
47. Upon Dr. Dubroy's selection there were questioned immediately regarding the process from inside the Board as well as outside.
48. The Presidential Selection Criteria states that a candidate should hold an earned doctorate in an academic discipline and be accompanied by experience. Alumni were concerned about the experience that Dr. Dubroy possessed being that it was limited to being Special Assistant for Program Optimization for then interim President Gaddis Falcon.

49. Since becoming President Dr. Dubroy has had several positive image shaping appearance and initiatives involving university.
50. Since becoming President Dr. Dubroy has also cut various scholarships to athletic programs as well as the university band.
51. The situation with the university band involved approximately 33 scholarships being cut and inevitably resulted in the Band Director being suspended from the University.
52. The Trustee Scholarship was not among the scholarships that were cut. This scholarship has been awarded to at least 9 students for the past 11 years, though it has been in existence even longer. It is informally called the “Joe Bell” scholarship and upon information and belief it is an unfunded scholarship. The total amount awarded during the past 11 years is \$926,509.00.
53. Students awarded the Trustee Scholarship must have a 2.5 GPA and most all recipients hail from Savannah Georgia, Chairman Bell’s hometown. This scholarship has been the topic of several social media post as well as a mini you tube documentary authored by current and former students.

IV. Conflicts of Interest

54. The Board of Trustees maintains a Conflict of Interest Policy.

55. Each Trustee should have received a copy of the Policy, have read and understood the Policy, and have agreed to comply with the Policy.
56. Trustees dealing with any person who seeks to do business with the university should act in the best interest of the university and in the public interest that the university seeks to serve.
57. Per the Trustee Manual, financial interest means any interest a trustee has, directly or indirectly, through business, investment or immediate family member. This includes an ownership or investment interest in any entity with which SU has a transaction or arrangement, a compensation arrangement with any entity or individual with which the university has any transaction or arrangement, or a potential ownership or investment interest in or compensation arrangement with, any entity or individual with which the university is negotiating a transaction or arrangement.
58. In the event of a conflict of interest, an interested person may make a presentation at the Board Meeting regarding the transaction. That member should then leave the meeting and allow the transaction to be voted on. If allowed the conflict must be disclosed.
59. The University's 2010 IRS 990 Form reports that Gary Financial, a company owned by then Chairman, and now Board Member, Willie

Gary's brother was paid over one million dollars (\$1,000,000.00).

60. The University's 2011 IRS 990 Form shows that the same company, Gary Financial was paid approximately nine hundred and thirty-six thousand dollars (\$936,000.00). At the time Mr. Gary was still Chairman of the Board.
61. The University has also employed BellKlean Cleaning Service, a Georgia based company owned by Chairman Bell's son on more than one occasion.
62. BellKlean's website details their work at Shaw University which includes demolition of facilities and construction of new locker rooms and weight rooms.

V. Breach of Contract

63. Combined, Defendants, have in total been leading Shaw University's Board of Trustees for approximately twenty (20) years.
64. Upon accepting the office of Chairman of the Board of Trustees each Defendant entered into a Contract with each student, faculty member, and alumnus of the University to protect not only the value of their degrees, but also to serve the University by acting in its best interest.
65. The last twenty (20) years have instead been littered by rumors of closure, publicly reported financial crisis, low enrollment, scandal, and

self -dealing.

66. Defendants have monopolized leadership of the Board of Trustees and breached their contract to the students, alumni, and faculty of Shaw University.

67. As a result of this breach of contract, Plaintiffs have been damaged in an amount to be determined by the trier of fact but in no event less than Seventy-Five Thousand Dollars (\$75,000.00).

WHEREFORE, Plaintiffs respectfully pray this Honorable Court as follows:

1. For damages for breach of contract in an amount to be determined by the trier of fact but, in any event in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).
2. To Award Plaintiffs the cost of this action, including the fees and cost of experts and other professionals, together with reasonable attorneys' fees.
3. For a trial by jury as to all issues so triable.
4. To grant Plaintiffs such other and further relief as this Court finds necessary and proper, to include injunctive relief as necessary.

Respectfully submitted, this the 29th day of October, 2015.

/s/ Christopher M. Young
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Local Civil Rule 83.1 Counsel

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a copy of the forgoing was served upon:

Joseph N. Bell, Jr.

714 Martin Luther King Blvd

Savannah, Georgia 31401

And

Willie E. Gary

117 SE Seminole St

Stuart, Fl 34994

By depositing a copy via U.S. Mail return receipt requested.

This the 29th day of October, 2015.

/s/ Christopher M. Young

Attorney for Plaintiffs

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Retained

