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CHARLES J. HITCH
President of the University

OFFICE OF THE PRESIDENT
BERKELEY, CALIFORNIA 94720

EARL C. BOLTON
Vice President—Administration

July 22, 1968

Mr. Herbert A. Stanwood, Jr
Assistant Director for Administration
Division of Biology and Medicine
U. S. Atomic Energy Commission
Washington, D. C. 20545

Dear Bert:

Several weeks ago you telephoned to discuss several LNM RB matters, and to inquire about the status of the action concerning Dr. Lehman's advancement. The primary purpose of this letter is to provide information which you and John Totter may find useful in any discussion concerning the Lehman case. Secondly, and despite the fact this will make it a "multiple subject" letter, I will discuss and provide information regarding several other aspects of the outstanding questions relating to the renewal of the GEN-12 contract.

I should say as an aside that Vice President Bolton is in Washington on two weeks active duty with the Navy. He suggested that I write this letter to relay the information presently available.

For ease of later reference, I will sectionalize what follows by subject heading.

The Merit Increase for Dr. Lehman.

Although I have kept you advised telephonically of the sequence of recent events, it is probably useful to summarize them at this time. About June 20 you telephoned to inquire concerning the University's procedures in making advancements in the Assistant Research Series from Step III to Step IV, to which I later gave telephonic replies.

As background, and confirming my fonecon, merit increases, i.e., from one step to another within the same rank, are not automatic. University practice for regular ranks faculty (Senate members) is to hold a critical

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review of performance significantly prior to the time an Assistant Professor achieves eligibility for promotion to Associate Professor by which promotion he would attain tenure. Normally this critical review occurs early enough so that if a judgment can be reached at that time that he will not eventually be qualified for promotion to Associate Professor, he can be terminated early enough in his career with the University, and at a young enough age, that his future in some other institution is not unduly prejudiced. Thus, the critical review occurs when he is appraised for advancement from Assistant Professor Step III to Assistant Professor Step IV. If, as a result of this appraisal, it appears that the Assistant Professor will not qualify for promotion to Associate Professor within a reasonable time, he is held at Assistant Professor Step III and given a year's terminal appointment. In a marginal case he might be advanced to Assistant Professor Step IV and again reviewed after a year, and if then found wanting for promotion to Associate Professor, he would at that time be given a terminal appointment effective one year later.

Since Research Series employees do not achieve tenure, these procedures are sometimes applied with somewhat less rigor than with regular faculty. It is perhaps true that in the past history of LNMRB they have not always been applied with as much rigor as they should have been. We consider it a credit to Dr. Lunt's determination to improve the quality of the Laboratory staff that he proposes to apply these procedures more rigorously, now and in the future, with respect to the Laboratory staff. If indeed a staff member does not measure up to the quality of work being done elsewhere in the Laboratory and on the campus, it is a favor to the individual to make that decision early so that the staff member may seek employment in some other institution having different standards of performance where his work will be more competitive and better rewarded.

Thus, in applying these procedures, the review of Dr. Lehman's qualifications for advancement from Assistant Research Biophysicist Step III to IV came at that critical period when the tacit but real assessment was whether he were capable of being promoted at some future time to Associate Research rank, after a suitable period at Step IV of the Assistant Research rank. If he were to be denied advancement to Step IV, then in turn the normal procedure would have been to have given him a one-year terminal appointment.

Because of the external scrutiny of the proceedings regarding review of Dr. Lehman's qualifications for advancement, it seemed desirable that we in the President's Office have an objective review of the conduct of those proceedings to insure that indeed they had been carried out in accordance with normal University practice. Accordingly,

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Mr. Mark Owens, Jr. visited the Laboratory on June 24, examined the documentation and the history of the review proceedings concerning Dr. Lehman's advancement, and subsequently returned to University Hall and discussed this situation with Vice President Bolton and me.

For the record, Mr. Owens is an Associate Counsel of The Regents, and has been for more than 12 years the designated legal advisor for AEC affairs within the University. He is intimately familiar with the major and minor AEC contracts with the University, and in addition has, on many occasions, acted as University counsel, before personnel committees of various sorts concerning grievances of employees of the University.

It is Counselor Owens' opinion, and also that of Vice President Bolton, that Dr. Lunt's proceedings in review of Dr. Lehman's qualifications for advancement have been fair, objective, and impartial, and that they have been conducted in accordance with University regulations and procedures.

In the particular circumstances surrounding the Lehman case, including his apparently resentful and prickly attitude, it has been our consensus that, in order to leave no shadow of doubt as to objectivity or fairness, Dr. Lunt should simply advise Dr. Lehman that he has no basis for recommending his advancement at this time to Assistant Research Biophysicist Step IV, and during the ensuing months that Dr. Lunt should continue to observe Dr. Lehman's performance, delaying any decision on a terminal appointment.

Accordingly, in a letter of July 10, after the last vote of the committee which met on June 19 had been cast, Dr. Lunt advised Dr. Lehman he had no basis for recommending Dr. Lehman's advancement. Dr. Lehman replied, in a letter of July 11, in rather acrimonious and elliptical manner. Dr. Lunt again replied in a memorandum of July 16. Copies of these three letters are attached. Dr. Lunt's letter of July 16 may, I believe, be particularly useful to you since it summarizes the whole case. Since these three letters relate to personnel actions internal to the University and are confidential in that sense, we would hope you can maintain their privileged character.

Hopefully, this series of actions closes, for the present, the issue of Dr. Lehman's advancement.

Grievance Procedures--Non-Senate Faculty.

When Vice President Bolton visited your office recently, you inquired about the University's grievance procedures, which apply to employees in the Research Series. To that end I enclose the following items:

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- Section 191 of the Administrative Manual of the University. In general the Manual prescribes the organization and functions of the University, sets forth the rules for appointment, promotion, recruitment, salaries and salary administration, and for leaves and vacations of academic personnel. Section 191, last revised on February 28, 1967, prescribes the procedure for appeals by academic appointees other than members of the Academic Senate.
- Campus Appeal Procedure for academic appointees other than members of the Academic Senate, Los Angeles Campus, dated September 25, 1967.

In addition, Dr. Lunt has composed a Laboratory Policy Statement on the same subject, which should be issued within a week to 10 days. I'll send you a copy as soon as it is available.

Support of the Laboratory with UCLA-Budgeted Funds.

During the visit in January to LNMRRB by the special committee headed by Dr. Philip Cohen, there was discussion with Chancellor Murphy of UCLA's providing support to the Laboratory, particularly by providing faculty positions paid by the University. As you will recall, Chancellor Murphy appeared favorable to the idea. In an effort to advance this particular matter and because such action would be especially useful to the Laboratory at this time, Vice President Bolton wrote a memorandum to Chancellor Murphy on July 8, 1968, a copy of which is enclosed.

As a related issue, in their July 12 meeting the Board of Regents approved the appointment of Dr. Charles E. Young, presently UCLA Vice Chancellor--Administration, to be Chancellor of UCLA succeeding Dr. Franklin D. Murphy, effective September 1, 1968. There thus appears to be time for Chancellor Murphy to initiate action on Earl's memorandum prior to his departure; moreover Chuck Young is generally familiar with LNMRRB's problems.

Wording of Article III--Term.

When Vice President Bolton was last in Washington you gave him a draft revision of the subject Article of the contract. Since then you and I have had several phone conversations in which the wording of the last sentence of the draft Article III has been discussed. As I mentioned on the telephone, our concern has been simply that the meaning of the sentence be clear and understandable and that any possible ambiguity be removed. In our last interchange on July 3, you gave me wording as follows: "ARTICLE III - TERM. Delete the last sentence of Item 1

Mr. Herbert A. Stanwood, Jr.

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reading 'The Commission shall have the right...' and replace with:
'The Commission shall have the right, based upon the results of any such review, to elect to exercise its right to terminate under the Article captioned 'Termination or Expiration,' and, notwithstanding paragraph I-A of said Article, without giving the advance notice thereon specified; such termination shall be effective upon the date specified in a written notice from the Commission to the University to that effect received by the University prior to the said specified effective date of termination.'

We have three comments:

- There is no paragraph 1.a. of the "Termination or Expiration" article of the current new version (Mod. 14) of the contract. Your legal advisor apparently looked at the existing version, Mod. 13. Thus the reference to "advance notice" should be to paragraph 1 of the article.
- We believe it would be preferable, again for clarity, if the word order following the internally quoted title were slightly altered as follows: "...Article captioned 'Termination or Expiration', and notwithstanding the provision for advance notice specified in paragraph 1 of said Article, such termination shall be effective..."
- Third, we simply do not understand what is meant by the wording of the rest of the sentence which reads "...shall be effective upon the date specified in a written notice from the Commission to the University to that effect received by the University prior to the said specified effective date of termination." Could you get from the lawyers an explanation of what the intent of this last portion is? As one hypothetical example: Suppose the Commission were to send the University a termination notice specifying the date of termination, but the letter were delayed in the mail (the Post Office being what it is these days) until after the specified date of termination. What then? Please let us have your thoughts, by telephone if you wish.

Bert, I think that wraps up the picture of the current status of affairs. I am mailing a copy of this to Earl Bolton, with the thought that if it were urgent that you discuss any of these items with him, he might be able to escape the Pentagon long enough to do so, or even to meet with you or John in the evening or on a weekend if it were especially important.

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Mr. Herbert A. Stanwood, Jr.

July 22, 1968

I would hope you might be able, with this ammunition, to obtain agreement to send us the letter you and John discussed with Mr. Bolton, so that upon the University's acceptance of it we could at least proceed with the appointment of Ray Lunt as Director, and later, in due course, with the execution of the contract itself.

Please let me know if there is any other information you need.

Best regards.

Sincerely,



Richard D. Wolfe

Attachment:

Three letters, Lehman case

cc: Vice President Bolton, w/atts.
c/o UC Washington Office
Mark Owens, Jr., w/atts.
Dr. O. R. Lunt, w/atts.

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RECEIVED BY APPENDIX B

OFFICE OF THE
VICE PRESIDENT
BUSINESS & FINANCE

JUL 10 1968

P.O.W.

July 10, 1968

Dr. Richard L. Lehman
Biophysics Division
Laboratory of Nuclear Medicine
and Radiation Biology

Dear Dr. Lehman:

This is to confirm our discussion of the result of the review of your status in the Laboratory of Nuclear Medicine and Radiation Biology. As you are aware, the Laboratory Committee which considered your qualifications for advancement met several times on this matter and I was also advised by an ad hoc Committee using faculty largely outside the Laboratory.

The recommendations of these groups do not provide me with a basis for recommending your promotion to Assistant Research Biophysicist, Step IV.

I will look to you to keep me advised of the status of your research.

Very truly yours,

O. R. Lunt, Ph.D.
Acting Chairman and Director

ORL:bk

bcc: Richard Wolfe ✓

July 11, 1968
1-4 154 Warren Hall
Lab of Nuclear Medicine
and Radiation Biology

Dr. O. R. Lunt
Acting Director
Laboratory of Nuclear Medicine
and Radiation Biology

Dear Dr. Lunt:

Your letter of July 10th claims to confirm the results of our 2+ -hour discussion on June 25th with Dr. Taplin. According to my notes of this conversation, you informed me that the result of the June 19th vote was roughly 5 to 3 against my step raise, but that two votes remained to be cast. You promised to let me know the final result of this vote by the end of that week. You failed to do this.

You also solicited from me and Dr. Taplin a list of my peers in radiological science, residing in the Los Angeles area, who were well-qualified to evaluate my work. You wrote down the names and addresses of these radiological scientists and took the list when you left. It was my understanding that you planned to call a meeting of these peers to advise you on the quality of my work, which seemed the only fair course, considering the present political climate at the Laboratory. Both you and Dr. Taplin declined to be counted as peers on this list.

Therefore your letter of July 10th is in no way a "confirmation" of our June 25th discussions. Why have you delayed contacting me for so long, and when did you change your mind about setting up a review by my peers?

Sincerely yours,

R. L. Lehman
R. L. Lehman.

cy Dr. Nusbaum .

PERSONAL

July 16, 1968

Memo to: Dr. Richard Lehman
From: Dr. O.R. Lunt

This responds to your letter of July 11, 1968, which was in answer to mine of July 10, 1968.

The purpose of my July 10 letter was to inform you that I had no basis for recommending your promotion. Since you appear to have difficulty in accepting this judgment, let me recapitulate for the record the events leading up to it. As you are well aware:

-- In March 1968 your work was reviewed by a committee of your peers made up of members of the Laboratory staff. This committee voted by a ratio of more than 2 to 1 against promotion. On being advised of the results, you objected that the members of the committee were insufficiently familiar with the field of your research work to be competent to pass judgment on your capabilities and accomplishments.

-- Accordingly, I convened a committee in April 1968 of several eminent qualified radiological scientists from the Campus and included representation from the Laboratory staff who reviewed your work and voted unanimously against promotion. When I advised you of the results, you accused me of prejudice, of biasing the committee, and of going to the committee behind your back.

-- In an effort to be absolutely fair and impartial, and to remove any doubt that your work had received adequate review and consideration, and in response to your own wishes, stated during a meeting on June 5 attended by several senior members of the Laboratory staff, in which statement you were emphatic that you wished your work to be evaluated internally within the Laboratory, I again convened a committee of senior laboratory staff members (including your Division Chief, among others). As part of this committee's review, you were invited to present a Seminar for Laboratory staff members which you did on June 12th. In addition, members of the laboratory committee, among others, reviewed your work individually with you. Having done so, this committee met again on June 19th to discuss your work and your qualifications for promotion. The committee's actual vote was not completed until the week of July 8th. The vote again was in a ratio of more than 2 to 1 contra your promotion.

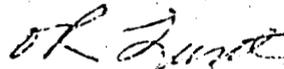
It is clear from this record that the senior laboratory staff and I have been more than fair and deliberate and have gone to great lengths, beyond the requirements of any normal personnel promotion action, to insure that your work was known, understood, and evaluated in comparison with that of your peers, in the Laboratory and on the Campus, in experience, length of service, and professional qualifications. With this background it should be clear to you that I cannot recommend your promotion and do not intend to do so.

Dr. Richard Lehman

Having settled the main issue in the foregoing paragraphs, I now turn briefly to your letter of July 11, which is comprised principally of technicalities irrelevant to the main issue. Your recollections of the discussion of June 25 are not in accord with my notes and Dr. Taplin's notes of the meeting. I did not give you a tally of the committee vote but advised you that the vote ratio was approximately 2 to 1 against advancement. The final vote tally and identity of the voters is privileged information to which you are not entitled. The list of your peers in radiological sciences which you gave me on June 25 will be useful to me during future evaluation of your qualifications for promotion. This evaluation will be made at an appropriate time during the current fiscal year, between now and June 30, 1969. It should be clear to you from the foregoing portions of this letter that I had then, and have now, no intention of convening a fourth committee to review your work at this time.

In summary, I do not intend to recommend you for promotion at this time having no basis for so doing. I consider this issue closed. As is the case for other members of the laboratory staff, your qualifications for promotion will again be reviewed during the current fiscal year at an appropriate time, and will be considered at that time in the light of the relevant facts.

Sincerely,



O.R. Lunt
Acting Director

ORL

bcc: Mr. Richard Wolfe

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CHARLES J. HITCH
President of the University

OFFICE OF THE PRESIDENT
BERKELEY, CALIFORNIA 94720

EARL C. BOLTON
Vice President—Administration

August 7, 1968

VIA AIRMAIL

Mr. Herbert A. Stanwood, Jr.
Assistant Director for Administration
Division of Biology and Medicine
U. S. Atomic Energy Commission
Washington, D. C. 20545

Dear Bert:

Pursuant to our phone conversation yesterday, I enclose a photocopy of an unsigned memorandum to Dr. Lunt purporting to be from Dr. R. L. Lehman dated July 19, 1968. As an aside, Dr. Lunt sent this memorandum to Dr. Lehman with a memo asking whether Dr. Lehman was indeed the originator. Dr. Lehman returned it, still unsigned, with a separate (signed) memo acknowledging that the July 19 letter was his, and stating that it was not his policy to sign intra-Lab memoranda.

As I related to you telephonically, at the time of his departure for Australia Dr. Lunt had not completed his reply to this memorandum, in which he intended to rebut in some detail the points made by Dr. Lehman. He intended to mail the reply back to the Lab, but at this time it has not yet been received. Clint Longwill has sent Dr. Lunt a radiogram querying the status of the reply.

In informal commentary on the Lehman memo of July 19, the first 1½ pages (through the second full paragraph on page 2) comprise a recital by Lehman of the alleged accomplishments on which he believes his advancement should be made. It should be noted that some of the publications he cites are old (although Lehman does not so identify them) and predate his work at LNM RB. They would have supported Lehman's initial appointment to a position in the Lab, but are not germane to the question of his present advancement. Throughout this

Mr. Herbert A. Stanwood, Jr.

August 7, 1968

first page and a half I am advised that there is sufficient "stretching" of the facts as to call into question the integrity of the writer.

To continue, the third complete paragraph on page 2 commencing "Let us now consider..." makes statements which are simply contrary to fact. On page 3 the second paragraph asserts a "right" which Dr. Lehman did not have; hence there could not have been a violation of it. Moreover, he refers to a "University policy" which does not exist.

The third paragraph on page 3 illustrates Dr. Lehman's repeated attempts to ascertain the composition of review committees and to pry into the vote count, both of which are unethical in the University community.

In the last half of the second page and on page 3 there are unjustified and unconscionable attacks upon the integrity and competence of Dr. Lunt and of the members of the review committees, statements which in themselves cast doubt on the objectivity of Dr. Lehman and on his competence as a scientific investigator.

Depending on the timing of the receipt of Dr. Lunt's reply to this memorandum, I will probably ask Clint Longwill to send you a copy directly so that hopefully you may have it in hand if the projected meeting eventuates on Tuesday, August 13.

Best regards.

Sincerely,



Richard D. Wolfe

Encl.

July 19, 1968

RDW

Memo to Dr. O.R.Lunt, Acting Director LNMRB
From Dr. R.L.Lehman

The purpose of this communication is to present evidence contrary to the assertions in your memo of July 16 that you have "no basis" for recommending my step raise, and that the internal reviews by Laboratory staff members were "absolutely fair and impartial".

It is my understanding that the bases for a recommendation are a) scholarship, b) timeliness and importance of the research work, c) research productivity, and d) future promise.

Concerning a) and b), the editors and reviewers of Nuclear Instruments and Methods, The Physical Review, and Applied Radiation and Isotopes have spoken eloquently. Of five papers on which I am sole or senior author submitted this past year, five were accepted for publication, none requiring editorial or scientific revision.

Concerning c) productivity, in addition to the above, research papers on which I am senior author have been selected for publication in Nucleonics, an I.A.E.A Symposium volume, a Biochemistry volume, and the Journal of Geophysical Research. You recently pointed to an interruption during 1966 and 1967 of the flow of published material. As you know, I was abroad on leave of absence without pay from May to November 1966. Furthermore, as you well know, during these years my modest internal requests for equipment funds, necessary to equip my DBM-stipulated contract work were denied and withdrawn, forcing me to make a major change in research emphasis. In addition, as you very well know, my work was interrupted during this period while seeking and obtaining redress from some other administrative harassments from the campus Privilege and Tenure Committee.

Concerning d) you yourself have admitted that my present research programs are sound, promising, pertinent to the Contract, and well-advised.

In addition, you have the strong recommendations of my work from a) my immediate supervisor, and b) the Assistant Director, the internal persons who are most familiar with it.

There are also the independent evaluations of my professional Health Physics, and Safety activities. As you know, I have Laboratory-wide responsibilities in these areas, which occupy a significant part of my time. Each year the AEC-SAN Office has sent out

Lunt memo

professional people to perform this review. The evaluations have been uniformly favorable. I believe you were present when the highly commendatory results of the last review were reported.

Finally, there is available to you the favorable evaluations of a) The American Board of Health Physics, who certified me in 1966, b) the Scientific Trustees of the Wellcome Trust, a prestigious British philanthropy, who considered my past record, future promise, and detailed grant proposal in competition with many others, and awarded me a \$5000 grant for a six-month period of study in 1966, and c) the American Institute of Biological Sciences, a widely-based national organization representing virtually all the scholarly societies in the biosciences, which has selected me (along with 3 others from the University of California campuses, all of whom are full professors) as Visiting Radiation Biologist for the years 1967-69.

These are the hard facts and independent evaluations from competent authorities that are known to you, and that form excellent bases for recommending my step raise.

Let us now consider the competence of the internal review committee you appointed. At the committee's first sitting a vote was taken without considering my recent reports and with no one present having first-hand knowledge of my present research programs. At the committee's second sitting a number of members cast votes again without adequate knowledge and familiarity with my work. This was substantiated by private and open admissions by a number of the Laboratory staff, including yourself.

As a consequence of this troublesome state of affairs, you called several lengthy meetings early in June with the Laboratory leaders to discuss policy on how to provide competent personnel reviews. At your request on June 12 I gave a seminar reviewing my work before a majority of the senior Laboratory staff. That same week, several of the senior staff, most for the first time, visited my laboratory. Among them were lipid chemists, plant nutritionists, and a clinical researcher in nuclear medicine, but only one or two radiation scientists. During the course of discussions in my laboratory, I asked each person to provide some substantive criticism of my work. None was forthcoming.

For this reason I was surprised when you told me the June 19th vote was 2 to 1 against my step raise. When I suggested that the bulk of the negative vote came from non-peers, you assented and together we worked out a list of peers. Now you claim to have solicited the peer list for my next years step raise review. After all the early June discussions concerning an improved review policy, why were the same non-peer members reappointed for the June 19th review, and how could you be sure that since some had voted twice on earlier occasions on bases other than knowledge of my work, they would not do so again? And why have you made no effort this year to appoint a competent review committee?

Lunt memo

The danger to impartiality of having non-peers evaluate a candidate's work is well-known and especially pertinent in my case. Knowledge of my strong opposition to expanding Laboratory programs that are only marginally related to Contract-stipulated research at the expense of support for basic radiobiological work has certainly reached the non-peers on my review committee, and you told me that some were further disturbed by my criticism of Laboratory personnel review policies. Furthermore, since the non-peer groups at the Laboratory are most anxious to expand their own research programs (which in tight-budget years can only be done by sacrificing independent researchers like myself), appointing senior members of such groups to my review committee may have put them in a difficult conflict-of-interest situation: my possible future questioning of the Contract-appropriateness of their programs can be eliminated, and my present space and funded position can be freed for their possible future use by casting a negative vote.

I must call your attention to another significant irregularity concerning my step-raise review. Contrary to University policy, I was not extended the right to nominate outside authorities from whom you solicited letters of evaluation. It is a subtle invasion of a candidate's right of privacy in professional relationships with his associates to solicit such letters behind the candidate's back and without his foreknowledge and approval.

Concerning the April review by some campus scientists, since it appears that you have failed to provide a competent and impartial internal review committee, I have no confidence that this secret group was any more fairly selected or that their vote was not in some way influenced, as they were no more able than the Laboratory review committee to provide you with substantial criticism of my work in support of the negative vote (which was split, not unanimous when you first told me about it).

I can only repeat my request that my work be judged by a competent group of fairly-selected radiation scientists from the Laboratory. If indeed this new committee finds that my work does not merit this pending step raise, it should be able to provide enough substantive criticism to counter the impact of the favorable judgements listed on pages 1 and 2.