



# GOOD GIFTS GONE BAD

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DOUG WHITE  
MAY 1, 2024

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## A BASIC TEST OF INTEGRITY

It is not enough to ask whether our actions are consistent with what we most deeply believe; we must ask instead whether we have done the hard work of discerning whether those beliefs are right.

2

# I WHEN GIFTS GO WRONG

3



There have been numerous instances over the years where donors became disappointed - and even angry - with how their gifts were being stewarded.

Some have taken their frustrations to court.

4



What if we could do it over again?

Would we make the same promises?

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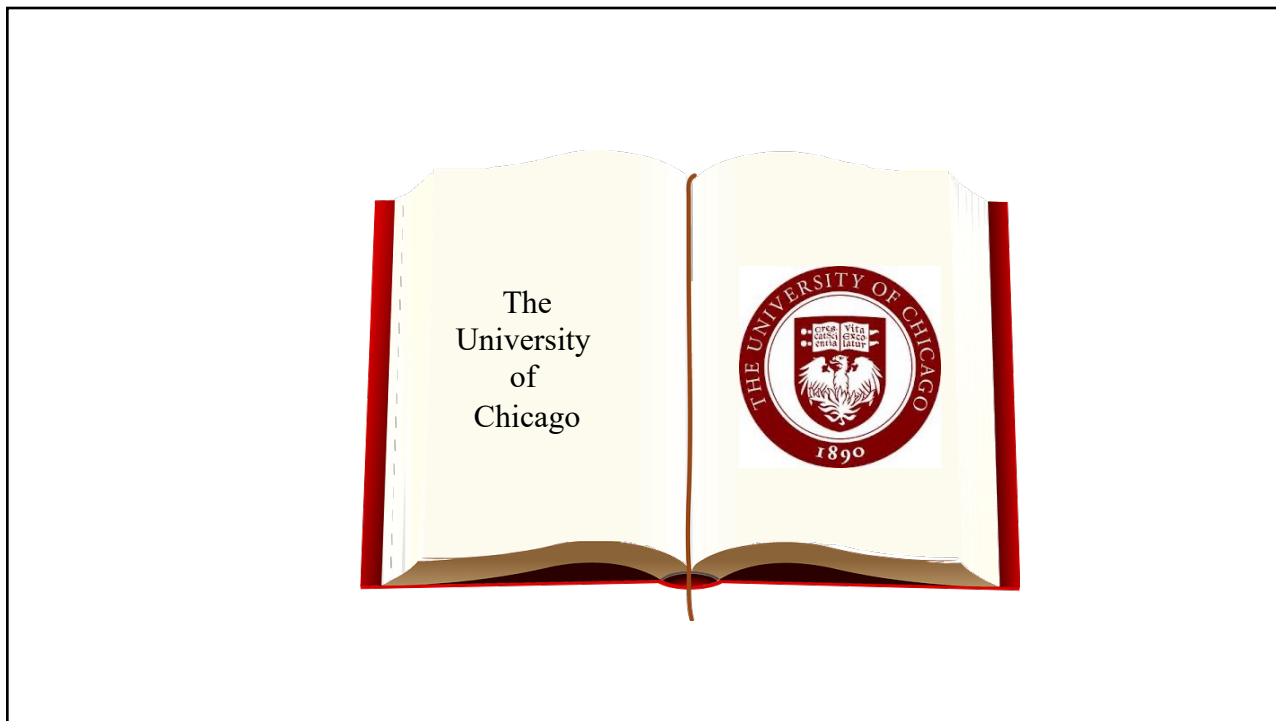


**Five Problem Gifts**

- **University of Chicago**
- **Dartmouth College**
- **University of Richmond**
- **Princeton University**
- **Webster University**



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**The Chicago Maroon** 

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“Pearsons,  
Who Pledged \$100 Million to UChicago,  
Want Their Money Back”

March 5, 2018

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From the Gift Agreement – April 3, 2015:

“Subject to the terms and conditions of this Agreement, the Donor pledges to contribute One Hundred Million Dollars (\$100,000,000) to the University.”

9

## The Chicago Maroon

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“Sensitive documents obtained by The Maroon last summer and a new lawsuit reveal a strained relationship between the University and the Pearson family, calling the future of the Pearson Institute, which was supposed to change the world, into question.”



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The Agreement :  
The Thomas L. Pearson and the Pearson Family Members Foundation,  
The University of Chicago,  
and  
Thomas L. Pearson



“The University agrees to . . .

1. “timely establish the Pearson Institute and the Pearson Forum,
2. “operate the Pearson Institute and the Pearson Forum, and timely satisfy the maintenance obligations, and
3. “timely establish and conduct staffing, programs and operations for the Pearson Institute and the Pearson Forum.”



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**The Complaint** (February 2018)

“Rather than address these breaches with forthrightness and transparency, the U of C has repeatedly sought to avoid and deceive the Foundation regarding these and other failures. The U of C has failed to deal with the Foundation honestly and in good faith.”



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The University’s Counterclaim (a few points):

“The Agreement **limits the Foundation’s role** in the Institute’s and Forum’s operations.”

“The Agreement protects the University’s **academic independence** by ensuring the Foundation and the Pearsons would have no role or authority with respect to academic or professional appointments . . . and other academic matters related to curriculum.”

“Since its launch . . . the Institute has **attracted leading scholars and talented students.**”

“From the outset, the Foundation, through Mr. Pearson and his brother Timothy Pearson, has sought **a level of involvement** and authority in the Institute's operations, including academic matters, **in disregard of the Agreement’s limits** on its role.”



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## The Chicago Maroon

“The Pearsons are profoundly disappointed, and regrettably have been left with no other choice or course of action. The lawsuit speaks for itself.

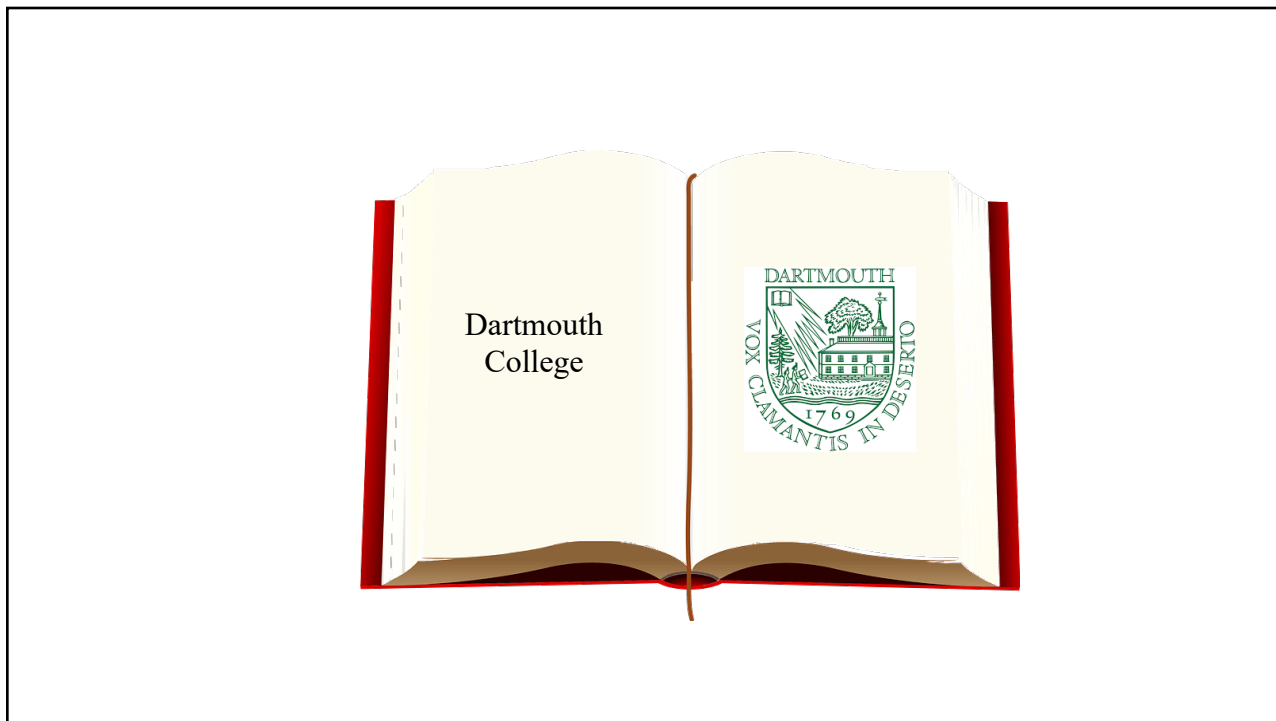
“The Pearsons believe their story is a cautionary tale that should give pause to any family, philanthropist, benefactor or donor who is considering granting a university any amount of money – large or small.”

*Family Statement*



Timothy and Thomas Pearson

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“How a Golf Lover’s \$3.8 Million Gift to Dartmouth  
Turned into a Yearslong Legal Dispute”

April 17, 2023

The image shows the USA TODAY logo, consisting of a blue circle followed by the words "USA TODAY" in a bold, sans-serif font. Below the logo is a headline in a serif font, and below the headline is the date "April 17, 2023".

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### The Intention, as Written in Robert Keeler's Will (1999)

Fifty percent (50%) to DARTMOUTH COLLEGE, Hanover, New Hampshire, for the sole purpose of upgrading and maintaining its golf course. Nevertheless, if in the Executor's sole and absolute discretion, the golf course has been sufficiently upgraded and is being adequately maintained, then any amounts in excess of the amounts the Executor determines to be necessary to sufficiently upgrade and adequately maintain the golf course shall be distributed to the ROBERT T. KEELER FOUNDATION, an Ohio nonprofit corporation, located in Cincinnati, Ohio.



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### The *Escape Clause* that Dartmouth Proposed and that Robert Keeler Rejected

If, at some time in the future, it is the opinion of the Trustees that all or part of the income from this fund can no longer be usefully applied to the objectives as stated above, then the Trustees of the College may use the income for another purpose which, in their opinion, most nearly approximates the Donor's objectives.



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Dartmouth closed the Hanover Country Club in 2020, citing financial concerns, and has refused the foundation's request to return the approximately \$3.8 million that remains.



With the blessing of the Attorney General's Charitable Trusts Unit, a circuit court judge ruled that Dartmouth can keep the \$3.8 million and use it for "golf-related" purposes, such as the study and design of golf practice areas or administrative and equipment costs of the school varsity golf teams.



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"If this stands, the idea that when a donor makes a gift with conditions, that those conditions are supposed to be honored, that rule does not exist anymore in New Hampshire."

How would he advise clients seeking to protect their intentions?

"I would say **don't give them the money.**"



John Laboe  
Attorney for the Estate

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Robert and Peggy Keeler

Robert Keeler died in 2002  
at the age of 88.

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# NEW HAMPSHIRE UNION LEADER

## “Dartmouth College Wins Dispute Over Donation for Golf Course”

July 14, 2023

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### The New Hampshire Supreme Court Decision - July 13, 2023

Dartmouth College can repurpose money Robert Keeler left for the “sole purpose” of maintaining the school’s golf course to support other “golf-related” purposes, such as the study and design of golf practice areas or golf team expenses.

In a unanimous ruling, the court said the estate of Robert T. Keeler did not have legal standing to challenge Dartmouth’s request to modify the restrictions Keeler had set on his gift in 2002, now valued at about \$3.8 million.

Keeler had included a second restriction in his will that if Dartmouth opted not to use the money to maintain the course, it return any unspent money to the Robert T. Keeler Foundation, a nonprofit that supports children in need.



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“The Supreme Court reaffirmed the important role that the Attorney General, Director of Charitable Trusts plays in enforcing the terms of charitable gifts. Our office takes this unique responsibility seriously, ensuring that trustees of charitable trusts honor donor intent and change the terms of gifts only when authorized by law.”

*Charitable Trusts Unit  
New Hampshire Attorney General’s Office*

23

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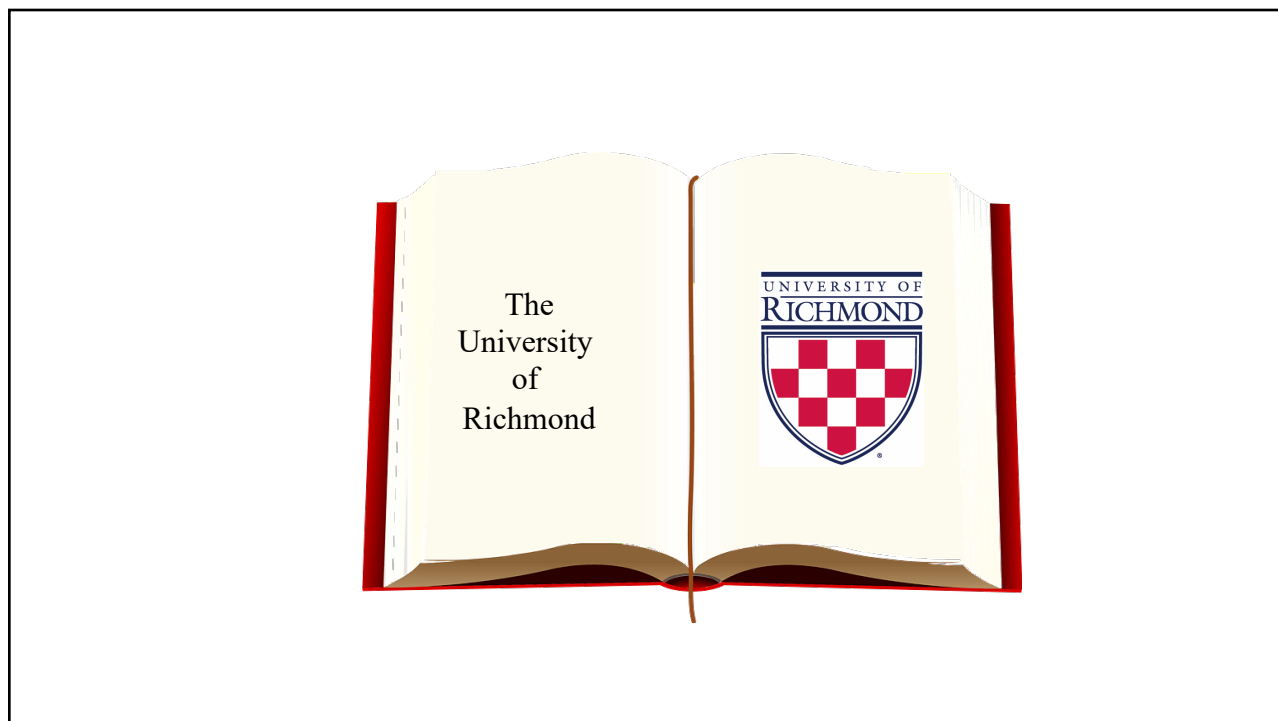
*Charitable Trusts Unit  
New Hampshire Attorney General’s Office*

“We’re beyond disappointed and stunned. “This does not bode well for the future of charitable giving in New Hampshire. This is a case we believed in passionately. Even if we lose in the court of law, we hope to win in the court of public opinion.”

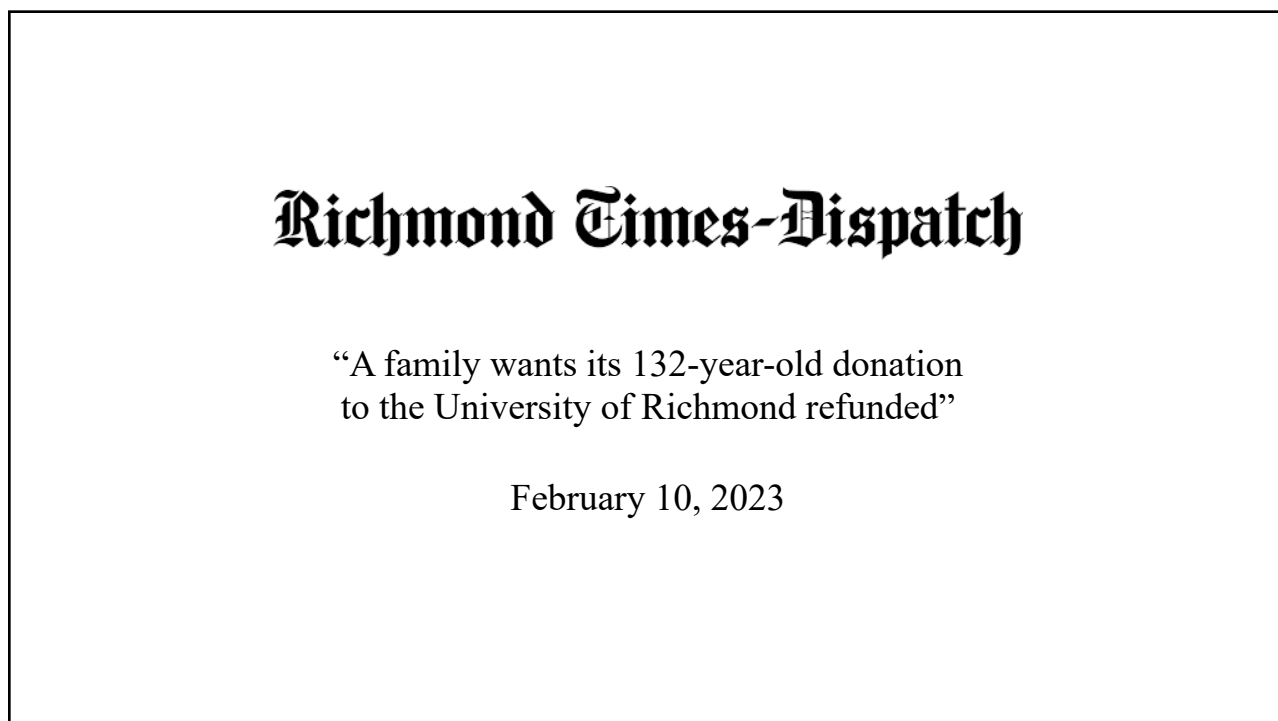
*John Laboe  
Attorney for the Keeler Estate*



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“Your decision to “dename” (a new word in the English lexicon closely associated with lack of appreciation and ignorance) the T.C. Williams Law School is shameful. Thus, the university needs to be exposed for its lack of GRATITUDE and infantile, woke reasoning.”

“It is clear that woke activists at the University orchestrated a ‘Tony Soprano’ hit on the Williams family. You won’t release any of the documents we have requested because it will expose this deceit. Radical Leftists hate people of accomplishment; they are jealous of them, and therefore they must be destroyed. The Williams family represents everything the Left hates; religious, upright, learned, accomplished and wealthy.”

“Exercising quiet humility and modesty, the Williams family’s contributions have served the University for nearly 200 years, and the City of Richmond much longer. You moved to Richmond two years ago. Besides being a carpet-bagging weasel and spitting on the graves of my family, what have you done for the University or the City of Richmond?”



Robert Smith

From a letter to Kevin Hallock, president of the University of Richmond.

(January 30, 2023)

### Give It Back

“The university’s endowment is \$ 3.3 billion. Since you and your activists went out of your way to discredit the Williams name, and since presumably the Williams family’s money is tainted, demonstrate your “virtue” and give it all back.

I suggest you immediately turn over the entire \$3.3 billion endowment to the current descendants of T.C. Williams, Sr. We will use it all to fulfill the charitable purposes to which it was intended.

We will take a note back for the remaining \$300 million, providing that it is secured by all the campus buildings and all your woke faculty pledge their personal assets and guarantee the note.”

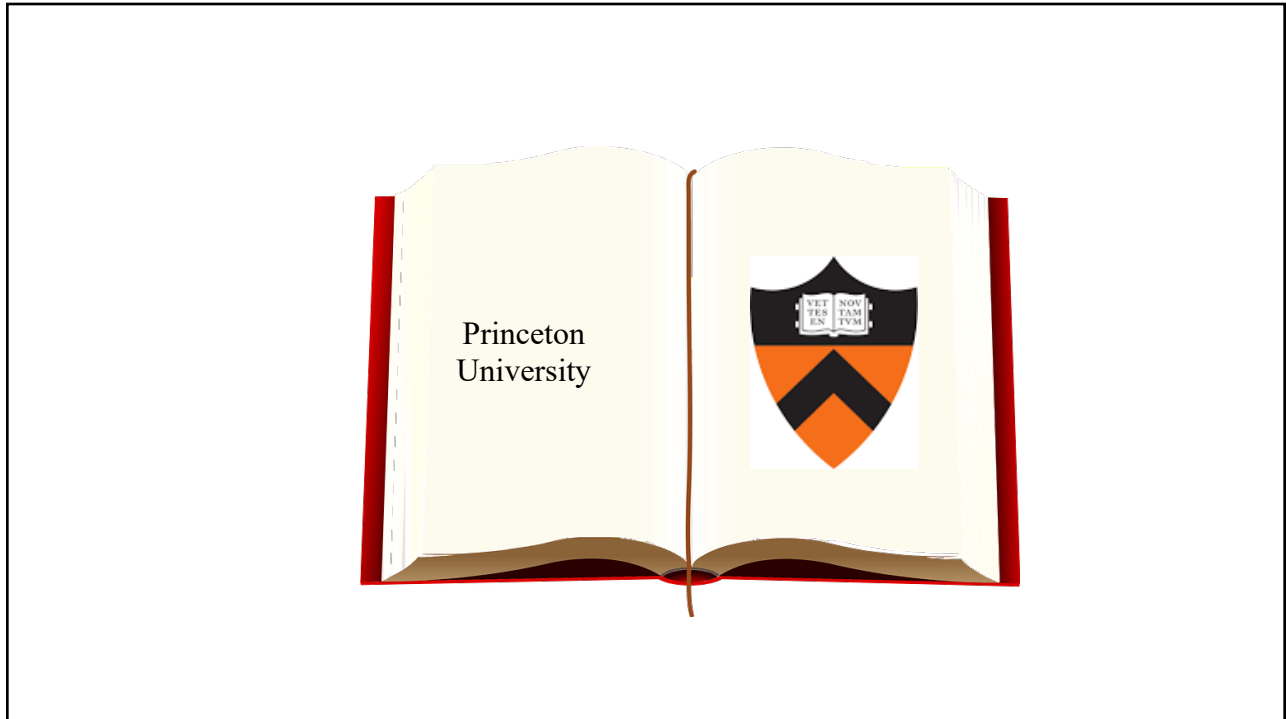


Robert Smith

From a letter to Kevin Hallock, president of the University of Richmond.

(January 30, 2023)

**To be continued . . .**



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**The New York Times**

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“Princeton University Is Sued  
Over Control of Foundation”

July 18, 2002

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## The New York Times

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“My family believes that the trust my parents placed in Princeton University when they gave this generous and well-meaning gift has been betrayed.”



**PRINCETON  
UNIVERSITY**

*Bill Robertson*

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**PRINCETON  
UNIVERSITY**

“... with particular emphasis ...”

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## THE FAMILY'S ALLEGATIONS

- Evidence that job results were disappointing
- Evidence of the university's scorn toward the foundation's mission
- Revelations that important decisions were hidden from the family trustees
- The accounting firm's devastating financial revelations
- An employee's corroborative findings



Bill Robertson



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## PRINCETON'S DEFENSE

- The Woodrow Wilson School is a world-class institution.
- Its graduates are among society's leaders.
- A good number of graduates enter public service.
- Academic freedom is paramount.
- The spending outside the direct mission of the Robertson Foundation's mandate was justified.



Nassau Hall  
Princeton University



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*Note:*

*In 2020 the **Woodrow Wilson School of Public and International Affairs** was renamed the **Princeton School of Public and International Affairs**.*



Robertson Hall



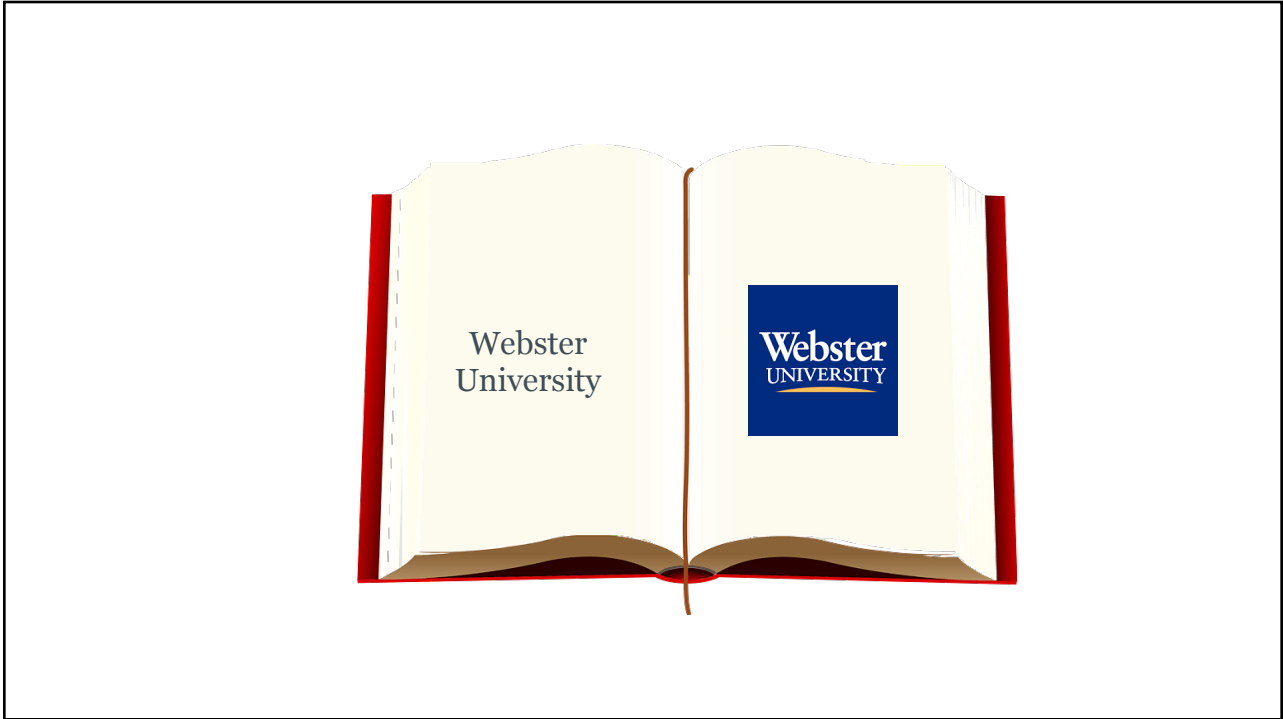
35

## A COSTLY OUTCOME

- Princeton paid \$45 million to reimburse the Robertsons' legal fees.
- Princeton paid \$50 million to establish a new foundation controlled by the Robertson family.
- The remainder of the original foundation became part of Princeton's endowment.
- The family will never have anything to say about how that remainder is spent.



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**INSIDE**  
HIGHER ED

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“Donors Sue to Block Webster  
Endowment Reclassification”

February 14, 2024

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### As of February 14, 2024

- Donors, including a former trustee, are suing to block Webster University from reclassifying endowment funds to meet the terms of a loan.
- Webster wants to unrestrict \$34 million in endowment funds to meet liquidity requirements for a loan that requires the university to “maintain 75% unrestricted assets to outstanding long-term indebtedness.
- However, that level fell to 19 percent in fiscal year 2023, which prompted Webster to seek to unrestrict funds to avoid violating the terms on a \$30 million loan agreement.
- The attorney for Jack and Sherry Schreiber: “Had the Schreibers been told that the monies . . . would be used for purposes other than the restricted purpose, and inconsistent with their intentions, they would not have established and funded the scholarships.”



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### A Donor Comments

Jack Schreiber, a former bank president, stepped down from Webster’s Board of Trustees in 2018. He told the *Post-Dispatch* that he resigned because the university didn’t listen to his warnings as it racked up debt while failing to rein in expenses.

“I had a front-row seat with all of this, and I didn’t think management was adequately addressing all the serious financial problems that were going on.”



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## Webster University Responds

“Webster University appreciates the contributions of all its donors and supporters whose gifts have helped the University achieve its mission of delivering world-class education around the globe.

“While seeking the reclassification of endowment funds from ‘restricted’ to ‘unrestricted’ status has become necessary to satisfy loan agreement terms, following such reclassification the University will continue using those funds just as their donors intended. We cannot comment further on developments in any active legal process.”



**How did this get resolved?**

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“Judge Lifts Restrictions  
on Webster University  
Endowment Funds”

March 1, 2024

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“Circuit Judge Stanley Wallach . . . ordered the school can reclassify almost \$29 million from numerous endowed scholarship funds to unrestricted funds. The order states the funds, once unrestricted, can be counted in the institution’s liquidity ratios, which will help the institution meet requirements for a loan.”



Judge Stanley Wallach



## What To Do?

## A FEW IDEAS: TO HELP AVOID DONOR PROBLEMS

(COURTESY OF THE TAFT LAW FIRM)



- 
- Develop a restricted gift agreement that clearly delineates how a gift will be used and the organization's rights to modify any restrictions should the restrictions become impossible or impracticable to achieve.
  - Review granting language for any estate or trust gift closely. Organizations that receive gifts are entitled to a copy of the Will or Trust in many states or at the very least the provisions of the Will or Trust under which the organization receives the gift. If an organization chooses to accept an estate gift, it comes with the strings attached in the granting language, whether the organization likes them or not.
  - Track the restrictions carefully. Thorough records are an organization's best friend should the organization need to seek a modification or removal of a restriction on a fund held for its benefit.

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## A FEW MORE IDEAS: TO HELP AVOID DONOR PROBLEMS

(MINE)



- 
- For a significant gift, inform the board of all relevant issues.
  - Be appropriately specific.
  - Be sure you can deliver on your promise.
  - Be prepared for a public relations crisis.
  - Remember: you are not the attorney.
  - Think carefully about what to include in your donor records.
  - Stewardship is just as important as cultivation.
  - There is nothing as important as trust.

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## **Kansas Allows Donor Standing Under UPMIFA**



Kansas's Donor Intent Protection Act took effect on July 1, 2023, amending Kansas's version of the Uniform Prudent Management of Institutional Funds Act.

The purpose of the Act is to provide recourse to an individual donor when a charity fails to follow restrictions in the endowment agreement.

A donor can file a complaint within two years after discovery of a violation of the endowment agreement, but not more than 40 years after the date the agreement was entered into.

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## **II WHEN DONORS GO WRONG**

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There have been numerous instances over the years where charities became disappointed - and even angry - with how their donors behaved.

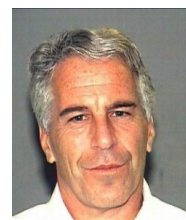
Some have acted on their frustrations.

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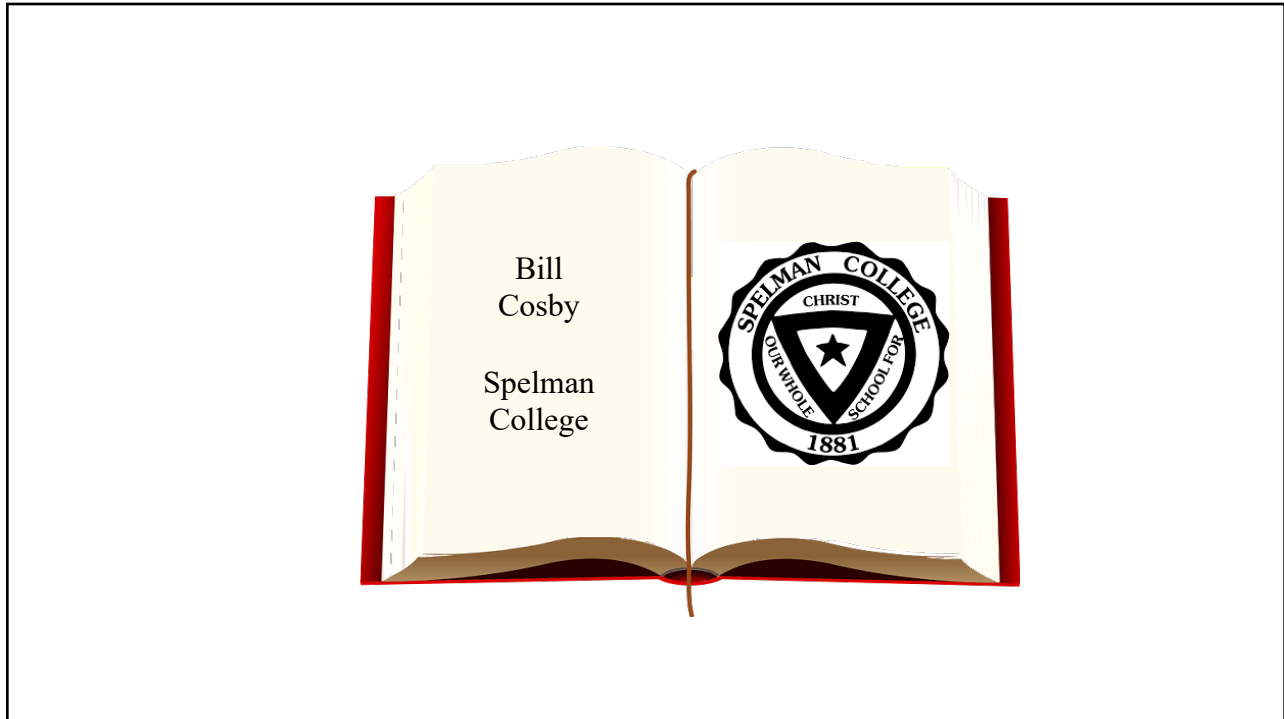


### **Five Problem Donors**

- **Bill Cosby**
- **The Sackler Family**
- **Leon Black**
- **Robert Smith**
- **Jeffrey Epstein**




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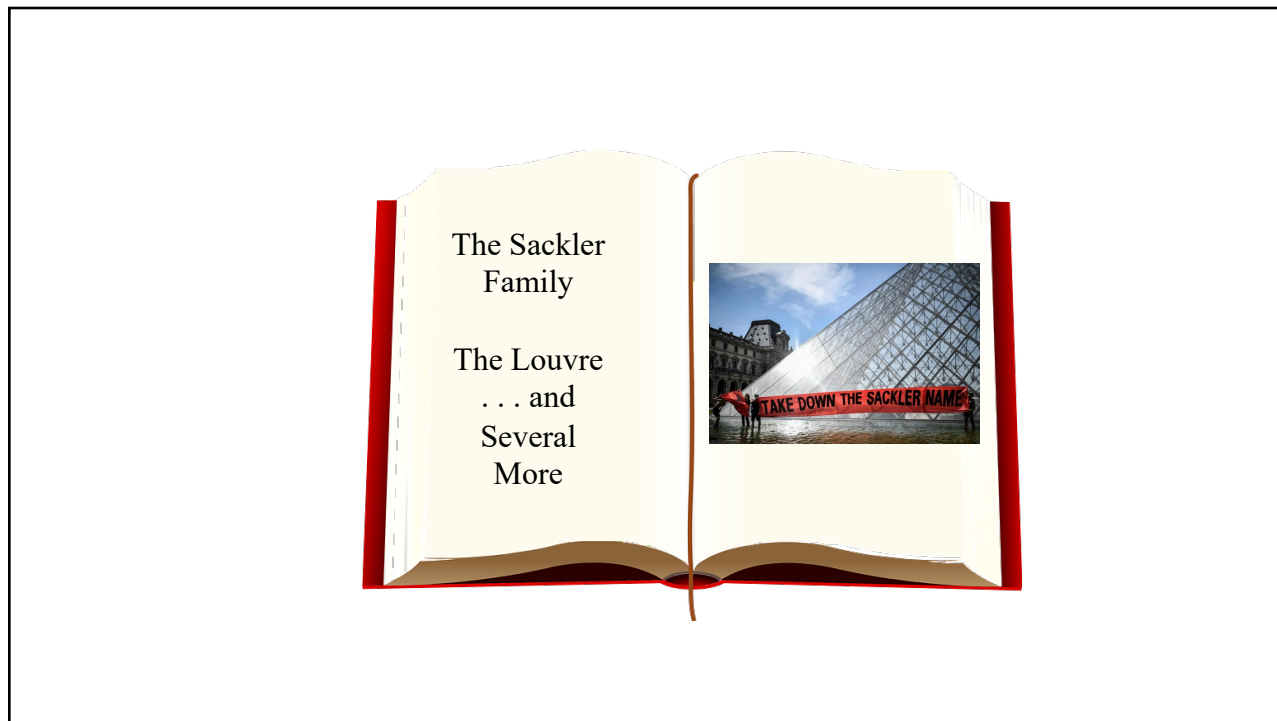
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## Bill Cosby



- More than 60 women accused Bill Cosby of sexual crimes.
- In 2018 Cosby was found guilty of three counts of aggravated indecent assault and sentenced to three to 10 years in prison.
- On June 30, 2021, the Pennsylvania Supreme Court overturned Cosby's conviction, citing violations of his due process rights.
- Cosby was highly regarded for his generosity to African American causes.
- He donated \$20 million to Spelman College in Atlanta in 1988, at the time the largest single donation ever given to a historically black college.
- Spelman endowed a professorship in his name.
- When the allegations of sexual crimes were disclosed in 2015, Spelman killed the fellowship and returned Cosby's funds.


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## The Sackler Family

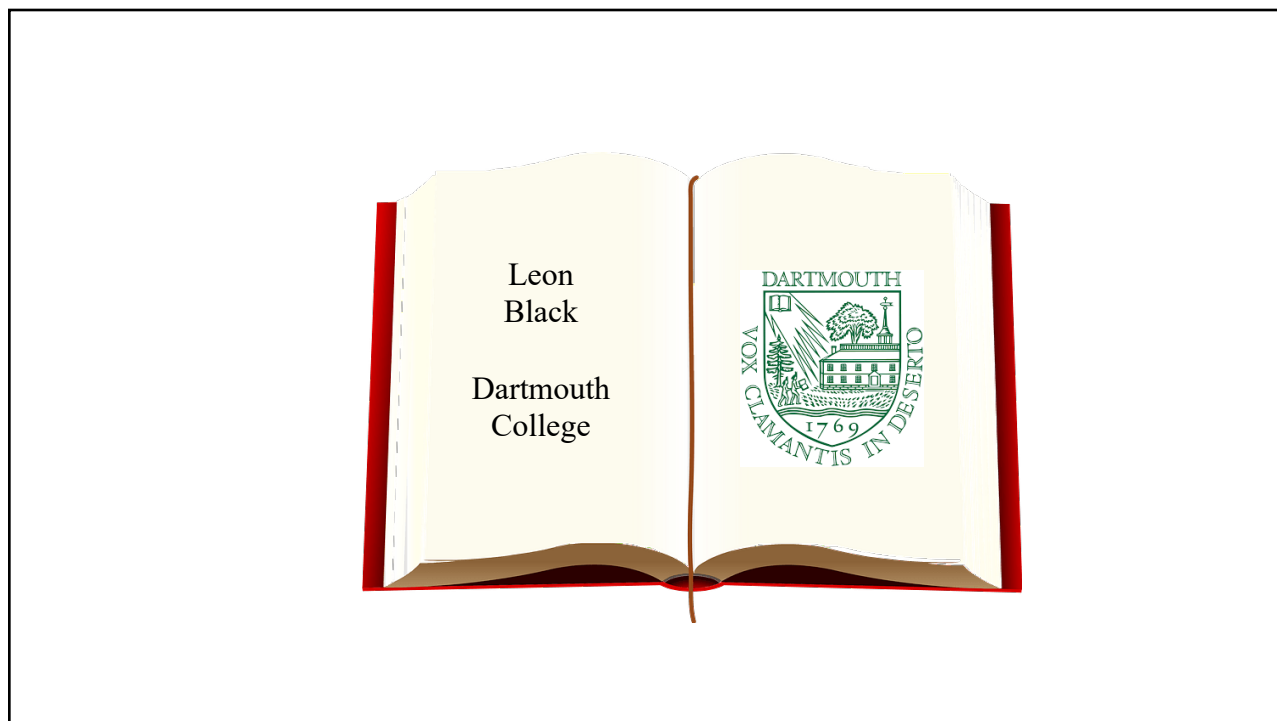
- In 2007 and in 2020, the Sacklers' privately held company Purdue Pharma, the maker of Oxycontin, pled guilty to a felony charge of deceiving doctors.
- In March 2022 nine state attorneys general agreed to drop their objection to a deal granting immunity from opioid lawsuits.
- In exchange, the family has agreed to increase the amount it pays from roughly \$4.5 billion under a previous settlement to \$6 billion.
- It's not over. On December 4, 2023, the Supreme Court heard arguments for and against the proposed settlement.



Raymond Sackler

- The Sacklers have donated to 23 cultural museums in the United States, England, and France.
- London's Tate Museum, the Guggenheim in New York and others said they'll take no more Sackler money.
- The Louvre has taken the Sackler name off a wing of the museum.
- In 2021 the family promised not to lend its name to museums for nine years.

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**The Dartmouth**

“New allegations claim BVAC donor Leon Black  
'73 sexually harassed Russian model”

September 17, 2021

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“Former College trustee Leon Black '73  
accused of rape in Jeffrey Epstein’s home”

November 29, 2022

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## Leon Black

Alumni and students are calling for Dartmouth to rename the Black Family Visual Arts Center following revelations of Black's financial ties to convicted sex offender Jeffrey Epstein.



Black and his wife Debra contributed \$48 million toward the campus building, which houses the studio art, film, and media studies departments, in 2012.

Conducted by the Wall Street law firm Dechert LLP, a report found no evidence that Black had participated in criminal activity, though some have questioned whether the three-month investigation revealed the true extent and nature of Epstein and Black's relationship.

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## Leon Black

Dartmouth alumni Stan Colla, Ruth Cserr, Roberta Millstein, and Diana Whitney urge the college to “show institutional courage.”



“We call upon the College to remove the Black family name, with or without Leon Black's cooperation, from the visual arts center and to initiate a community-wide conversation about an appropriate renaming that demonstrates the College's commitment to address its egregious history with gender and race issues.”

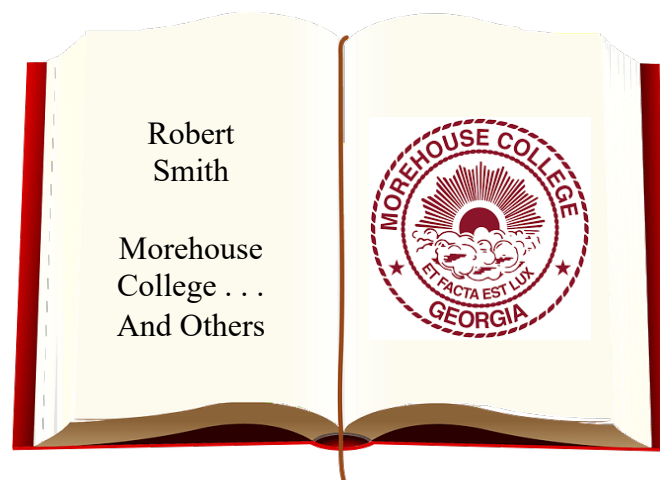
58

## Leon Black

“What if Black himself were to ask Dartmouth to change the name of the building?” the alumni ask. “What if, for example, a representative committee of students, alumnae, faculty, and staff were to suggest a new, more appropriate name? Then the Black Family could take credit for wanting to help change the harmful culture at Dartmouth, to create a campus safe for all students from the degradation of gender-based violence.”



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# TIME

“Robert F. Smith – the billionaire who pledged during a commencement speech last year to pay off the student debt of the Morehouse College class of 2019 – is launching a new initiative to help ease the burden of student loans at historically Black colleges and universities (HBCUs).”

*June 23, 2020*  
*Time*



Robert Smith

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## The Philanthropist

Smith is the founding director and president of the Fund II Foundation, which has invested in organizations such as Cornell, the National Park Foundation, and Susan G. Komen, as well as NAF (formerly known as the National Academy Foundation) and the United Negro College Fund.

In 2015, Smith sponsored the college education of the Boko Haram girls who were able to return home.

He has also given time to Robert F. Kennedy Human Rights, the Columbia Business School, the Cornell Engineering College Council, the Boys & Girls Clubs of San Francisco, the Prostate Cancer Foundation, and The Sphinx Organization in Detroit.

He became the first Black board chair of Carnegie Hall in 2016.

Smith was listed in The Chronicle of Philanthropy's "Philanthropy 50" in 2017.

In that same year he was the first Black to join The Giving Pledge, whose members promise to donate half or more of their wealth to charity.



Robert Smith

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## The Promise May 19, 2019

“You great Morehouse men are bound again only by your limits of your own convictions and creativity. You have the power within to be great, be you, be unstoppable, be undeniable and accomplish the things that people thought you never would. I’m counting on you to load up your bus and share that journey.”

“Men of Morehouse, you are surrounded by a community of people who have helped you arrive at the sacred place and on this sacred day. On behalf of the eight generations of my family who have been in this country, we’re going to put a little fuel in your bus.

“Now, I’ve got the alumni over there, and this is the challenge to you alumni. This is my class, 2019. *And my family is making a grant to eliminate their student loans.*”



Robert Smith

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Robert Smith’s bona fides as a philanthropist and a businessman were well known. He could credibly be seen as a role model for both doing well and doing good.



Robert Smith

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## The Problem

So, it may have come as quite a surprise to the public then when, in October 2020, Smith admitted that he illegally avoiding paying millions of dollars in federal taxes.

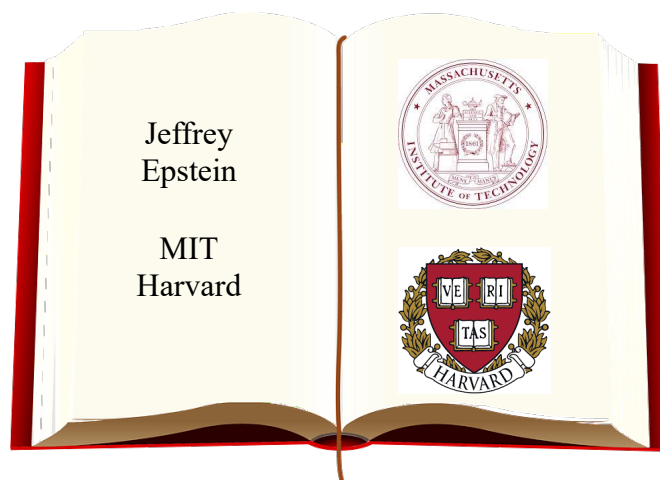
The Justice Department and the I.R.S. had begun investigating Smith's financial activities four years earlier, in 2016, after he moved \$200 million in assets through suspicious offshore entities.

Federal prosecutors determined that Smith had filed false reports and fraudulently relied on foreign trusts to evade taxes over a span of 15 years. It was one of the biggest tax evasion cases in American history.



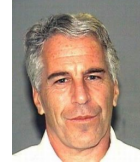
Robert Smith

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## Jeffrey Epstein



- Epstein was first arrested in 2006 and convicted of sexual offenses in 2008.
- He was arrested again in July 2019 for sex trafficking.
- Epstein was found dead in his jail cell in August 2019.
- Before 2008, his most significant philanthropic contribution was \$9 million to Harvard University - which donated the \$186,000 it had not spent to organizations assisting survivors of human trafficking and sexual assault.
- After Epstein was released from prison in 2009, he gave \$7.5 million to MIT.
- He also served on the board of the family foundation of private equity mogul Leon Black, whose money was part of the \$7.5 million he donated to MIT.

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## A RATIONALE?

“People don’t understand what this job is. You cannot pick and choose, because among the very rich is a higher percentage of unpleasant and not very attractive people.”



Leon Botstein  
President of Bard College  
Explaining why he solicited money from Jeffrey Epstein

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New York Times  
May 5, 2023

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## What To Do?

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### A FEW IDEAS: TO HELP AVOID PROBLEM DONORS

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- Protect your charity in the gift agreement.
- Research your donor before the gift is made.
- Determine whether an accusation is enough.
- Be appropriately specific about returning or not returning funds.
- Outline how you will deal with reputation issues in a policy document.
- What money won't you take?

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“Human-nature will not change. In any future great national trial, compared with the men of this, we shall have as weak, and as strong; as silly and as wise; as bad and good. Let us, therefore, study the incidents of this, as philosophy to learn wisdom from, and none of them as wrongs to be revenged.”

Abraham Lincoln



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THANK YOU

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DOUG WHITE

May 1, 2024

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