

Subject: Mark Emmert (ME)

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Interviewers: Anne Greenleaf (AG) and Milli Lake (ML)

Transcribed by: Sean Rail; Edited by: Christina Corrales-Toy

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AG: So, I'm Anne Greenleaf and I'm one of the interviewers.

ML: I'm Milli Lake and I'm the other interviewer. It's the first of September 2010. If you could just state your name.

ME: I'm Mark Emmert, President of the University of Washington.

ML: I'm just going to get started with some basic questions and then Anne will follow up with some other questions if we have time. Basically, we'd like to hear you tell us, in your own words, how the process with Nike unfolded from beginning to end, and we thought, perhaps, you could start with how the matter first came to your attention, and what the key issues were.

ME: Which of the Nike situations are we talking about? The relationship overall?

AG: I think Margaret is perhaps most interested in the case that ended with the settlement, so that that would be the Hugger and VisionTex cases.

ME: Those were the two. My engagement with Nike has been a long-standing one. Nike has been working with universities, of course, for a long time around various licensing agreements, so I had familiarity with them from other universities I have been at. When I came here, my engagement was limited to the questions of the existing agreement that we had with them that was about to be renewed, our Code of Conduct. The committee that at that time had been—we simply had a licensing committee that dealt only tangentially with the Code of Conduct issues and it wasn't clear what their role and responsibility was. Margaret was involved, and I asked Margaret and others to help re-craft what that committee could and should look like so that they could be more actively engaged in these kinds of questions that they had formerly inside their portfolio. Before, they had been advising the President's office but without portfolio, largely. It hadn't really been a formal part of their charge. So, I did that. I don't remember exactly when that was done, but a couple of years ago. And so, with that change and the reappointment of individuals to that committee, and the work of the Student Labor Action Project, I guess—as well as the work of the WRC and, to a lesser extent in this case, the FLA, the committee brought to my attention the nature of these problems. The SLAP student group also did, as well. I had a handful of meetings—I've forgotten how many—with student groups—on this particular case I think just one. I had a fair amount of communication from them, all of which I turned over to this committee and then awaited their advice. A long way of introducing how we got to the beginning of this, okay?

ML: That helps. Could you then, maybe, tell us a little bit about the impact of the student groups on the decision making process, and the decisions you made?

ME: Well, I think for me the most important role that the student group played was to keep this issue on the agenda. Their ultimate impact on the decision itself was limited, because I really turned to the advisory committee for their recommendations more than anything else. But what they did do that was useful to the process was keeping it on the agenda.

AG: What was the most effective way they did that for you? What communication did you feel was actually useful, and what communication do you think didn't work so well?

ME: The parts that don't work so well with me—so this is just a personal bias—is written communications in the form of demands, and almost histrionic language that, in fact, has a very negative impact on my approach to these things. It makes me want to be less collaborative, rather than more. What I found most effective were conversations that I might have with one or two of them. These are hard things to do in large groups, although I met them in groups three times. Those are useful for venting emotion and for feeling a sense of engagement, but they are not forums within which you can get much done. I think the communications that I had with a number of the student leaders in that organization, who are very thoughtful, bright people, and when you see that and when you see that they are mostly interested in really solving a problem, that's useful and effective. What's least effective is anything that conveys the sense that this is more about the process than it is about the outcome. Social movements of any kind occasionally attract people who are more interested in the social movement than fixing a problem. And, like all organizations, they have a few of those. That's not particularly effective and then leaders, at least in my own case, want to distance themselves from that instead of embracing it. And to the extent that I found them thoughtful, deliberative—passion is fine, I like passion. Concern, that's very constructive—and bringing constructive proposals forward. When it becomes histrionic, emotional, threatening, demanding, then it evokes a negative response, and then you have to say, “Oh, okay well I'm certainly not going to make it look like I've been beaten into submission.” So then it slows things down rather than accelerating them. Having them keep this on the agenda is, I think, a very constructive thing, even when it's kind of annoying [Laughter], but, you know, not in a bad way. But this is like “Oh yeah, right, I got to pay attention to this.” That's constructive. Having a few bright, articulate spokespeople I think is very helpful. The rest, not so much.

AG: There was one student representative of SLAP on the actual board, right?

ME: Yes.

AG: And how—how was your relationship with her?

ME: I don't know. The truth is that I intentionally stay away from those meetings. So I've never sat and participated in those meetings. I didn't want to - I think it's inappropriate for me to do so. What was important was that that person was there and I can check with Margaret, for example, who is Chair and say, “Well, is everybody participating? Is this committee working well?” And she can say, “Yes, this is working great.” And I was relying upon that committee, then, to include all those voices. So I assume the answer is yes, but I don't have evidence of that.

ML: I think we'll come back to some specifics of this if we have time at the end, but we wondered if we could hear you talk a little bit about your interactions with Nike over the course of this process and following the recommendation from the committee, ACTL, and what your interactions were with Nike up until the settlement.

ME: Well, I think that part of this process is very important—that's not unlike my description of the interactions with SLAP—is that there's constructive engagement, and then there's kind of pointless disengagement. And the balance is a fine one between, you know, encouraging, even nagging, and keeping the issues on the agenda, but not doing so in a fashion that so alienates the people whose behavior you're trying to change that they just say, "Well, there's no pleasing these people, I'm going to give up." As I look at Nike, based upon what I've read and what I've seen over the years—while these issues come up with Nike, Nike is trying earnestly to grapple with a very, very difficult set of economic issues. To me, continuing to stay engaged with them becomes critical. One of my concerns about, for example, cancelling our contract with them was once you do that you now have no leverage whatsoever with them, because now you're not even talking, right? It's like in international diplomacy, right? So, when you talk to Iran and when you tell them to go away that makes an interesting—and I don't mean to compare Nike to Iran, but, you know, the concept's the same. And when you apply some kind of sanction but—but not a "death sentence," if you will. As we work through a number of these issues I've built relationship with Nike over a number of years and had, at one time, talked to some of my fellow presidents who had similar concerns of issues and we'd all gone down to Nike and met with all their leadership—I guess, Phil Knight wasn't there, but everyone other than Phil, who was out of the country—and talked these issues through with their people and we had a very, very good all-day-long meeting down at Nike headquarters. They understood our concerns, we got to learn theirs and, more importantly, I think it built some good working relationships and some lines of communication. Margaret has lines of communication. Some other members of the university community have lines of communication. And then, I did as well, at the most senior levels. So, what I was able to do leading up to and through all this, even before the committee's recommendations and beyond, was to make sure that they understood that we were serious about this. To informally communicate that this isn't just a group of students, this is something we, I, take very seriously and we need to make sure that we can find a resolution to this. We don't want to find ourselves in a position where we have to toss you off campus. So, work with me to avoid that, please. And they were very responsive. You have to also recognize that Nike, like the university, like any big organization—or nation-state—isn't monolithic, right? There's lots of voices, there's lots of opinions. And so, just as if Nike called up the UW—if they talk to a committee member they'd get one point of view, if they talked to the athletic department they'd get one, if they talked to a student on the street they'd get one, if they talk to me they'll get—and Nike's no different. We also needed a way to sort of triangulate positions and opinions, because we'd hear in one place "Well, there's no way we're going to do this," and in another one, "Well, that would make some sense." So we realized that we had to get them to kind of settle on an agreement as well. With some face-to-face meetings, a couple of those, and several phone calls with senior Nike officials, I was able to discuss these matters, communicate the seriousness of our intent, communicate our strong interest in being helpful to them, as well, because their situation is an interesting one in that they don't want to deal with sweatshop labor, that's not what they want. On the other hand, they do have to worry about costs and a variety of other things, or their competitors who don't care about working with sweatshop labor, who will, in

fact, undercut them. They work in this highly competitive environment. Nike winds up being much more closely scrutinized than any other enterprise in the clothing manufacturing business because they work with colleges and universities and because there's people like you. But, nobody's doing this for REI, right? I own a lot of REI clothes, I have no clue where they came from, not the slightest clue. Neither, probably, does Northface—I don't know whether they know or care. I probably shouldn't say companies, but most other companies. Nike does, at least in the collegiate world, care a lot about that, so that makes them, potentially, a good partner. We want them to be successful so that we can turn to others and they, in turn, can turn to their competitors and say, "No no no, we play by the rules, you need to also." I'm way off your question, sorry.

ML: No, this is brilliant, and leads into some of our later questions, actually. So, on that, if it's okay to jump here, what do you think were the key factors in Nike's decision to settle in July and what impact do you think the University played?

ME: I think the universities, us and others, had a very significant impact on it. I don't want to say it wouldn't have happened otherwise, but that may have been the case. So, I think here's a situation where the universities, collectively, and the students and staff and others had a very positive impact on, if nothing else, the lives of a good number of people in Latin America. So, they were clearly—they, Nike, were clearly concerned that they not have the contracts broken and, candidly, especially with us. So, Wisconsin did, but Wisconsin is not a Nike school.

ML: Right.

ME: So, I'm not being critical of Wisconsin—probably the right thing for them to do, I suppose, but that was a very easy call. Not an easy call here. Nike recognizes that we are the dominant institution in the Pacific Northwest in their backyard. Cornell said they were going to pull the plug. Cornell's not exactly an athletic powerhouse, so it did not have the same kind of purchase on Nike as we did, so they were very, very anxious to know what we were going to do.

ML: I have a couple of other questions. One thing that we were interested in is if you could just speak a little to the UW's Code of Conduct with regard to its suppliers and what obligations Nike had under the Code of Conduct.

ME: Well you obviously have the Code of Conduct, but I think our code doesn't go as far as, you know, SLAP, for example, would like, or even the WRC. I think it's a good, sensible place for us to be right now. Over time it should become more aggressive, maybe, but for the state of the industry right now I think it's a very good spot to be in, so I'm very supportive of it. From the evidence that I saw, that the committee saw, Nike, admitted that they clearly had violated this notion of keeping us informed of where product was being made. And while one can say, "Well, it's a bookkeeping error," – it probably was, I'll take them on their word for that, - it's a nontrivial bookkeeping error, because central to all of this is, in fact, knowing where your products are being made, and if you lose track of that, then any chance of enforcement kind of goes out the window. So, I'm confident—I have some level of confidence, a high level of confidence, that Nike's being attentive to that, if for no other reason than that it is relatively easy to check on. The second one, in terms of what really happened, were our products being made in

either of those two factories, and they claimed they weren't. They claimed that there largely wasn't any collegiate product being made there. At the end of the day, I guess, my concern is who knows? That's a question we'll probably never know. But they didn't ever deny, because I think this is genuine on their part, that what happened there was wrong and that these employees were wronged. They didn't deny that. They said, "Yeah, that's right, these people have been mistreated. No question about that." It's who's responsible for that. They do have this interesting problem of precedent, that if okay—if we do this, you know, now were saying that all of our employers—and I mean there are subcontractors out there, "Oh, don't worry, we'll back stock you whenever you skip your employees." That's what their most afraid of, is they're giving a green light to a lot of other people to do bad things, and that's an understandable problem for them. Candidly, I was not fully optimistic that they were actually going to ever write a check. They were talking about a number of other solutions, some of which I would have probably found acceptable, but at the end of the day I was delighted where they wound up because I think that was a hard call for them.

AG: Maybe we can just follow up with that. There were a couple of components to the final settlement that they offered in July, which was the cash lump sum, and then there was the healthcare extension, and then there was also priority job rehiring. Can you talk a little bit about how involved you were in creating the final package or negotiating that with Nike, but what part of that was most important to you, what you were hoping to see in the final package?

ME: I was hoping for all three, so that was really terrific. We weren't involved in the negotiating of that at all, so what they had to do was negotiate with that local labor union, the name of which escapes me right now, down there. So this was a local negotiation. What they knew from us was that if the local labor representatives were willing to sign off on it then, odds are, we would be satisfied as well. We didn't say, "That's all you have to do in our mind," but if the local representative said, "Our people are [INAUDIBLE]," then I probably would have said, "Well, who are we to argue with that?" So, the negotiations occurred at that level. In talking with individuals at Nike, I knew that those three pieces were on the table and they varied a lot over the course of time in how they were going to be pieced together. The Nike folks were very nervous that that would become a public conversation and then their negotiations would get derailed, so I was not in the position to discuss it with anyone. But—and that's another piece, I guess, that's important for this report—is that the nature of this kind of process and negotiation does enter into periods where confidentiality is essential. While that doesn't make all the players happy—students, I know, were unhappy that I wasn't sitting down and telling them what was going on, it was simply impossible to have done so. To do so would have derailed the process and the outcome that we all wanted wouldn't have occurred. If I were looking at this as an exemplar for going forward, there needs to be some general understanding that at some points in time people are going to have to sit down in a closed room and work this out.

AG: Was there anything else that you would have hoped for additionally that wasn't in the package?

ME: I think under the circumstances that was a great outcome. I can sit and say, "Oh, it would have been nice to have this or that," but realistically I was very pleased when they reached that final agreement.

ML: You touched on this a little bit and you've talked about your interaction with SLAP and with the advisory committee here - are there any other stakeholders, such as the Workers' Rights Consortium, or the FLA, or the local union in Honduras that you had interaction with in this process?

ME: No, no I didn't. I rely on the committee to—and the staff people to have those interactions. I think it's really critical that the President, or any senior administrator, have an arm's length relationship to those conversations, so that when they come to me I don't have a vested interest in it. If I sit in on negotiations on the deal, I would have been strongly inclined to say, "Well of course I loved the deal, I did it," you know, instead of being able to say, "Oh, let's look at this and make as objective a decision as you can."

AG: It sounds like you had an early concern coming in, as President, since you were restructuring the licensing committee and wanting to, sort of, bring that in with the Code of Conduct and make that important at the UW. What inspired you to take a leadership role on these kinds of issues?

ME: Well, some were already on the table when I got here and, obviously, I was familiar with all these issues because they've been national and every university has them in varying degrees. When I arrived, we already had another case under way. We had one, also the Russell case—but, I guess that was after I reformed the committee? My timeline gets a little fuzzy here. So there were a few things, and a few smaller ones, that were pretty lively and it became clear right away that we just weren't structured in the right way, and the committee itself was pretty good about asserting that they needed, perhaps, a different, more formal role. Because I was asking them to give me opinions on some things, and they'd say, "Well, yeah, but that's not in our charter." And so I changed the charter, and the committee, in a large part, redrafted it for me, knew what I wanted and edited it a bunch of different times and wound up with something that works.

ML: And we heard about Cornell and Wisconsin in this protest. Were there other universities or schools that you had conversations with?

ME: Oh yeah, sure. Yes, well, did I have direct conversations?

ML: Or, was that very important?

ME: I was curious to know about the decisions at North Carolina, who determined that they weren't in violation of their code, and also another school—Purdue, who'd concluded no, they're fine with this. So, I had some people gather some information about those conclusions. I spoke with the Chancellor of North Carolina. He and I were at a meeting together about some of these things, and when university presidents get together, you know, this is occasionally a topic of conversation and so at an Association of American Universities (AAU) meeting where all of us would be gathered, you know, I'd chat with the president of Cornell, who's a friend. Then I talked a couple times with the chancellor of Wisconsin, also someone I know well. Soliciting advice or just learning the lessons of other schools is helpful. I would have liked to have seen a

bit of a more collaborative model among the Pac-10 schools. We'd talked about that at one point, and the reality was we quickly realized that they all have different interests and different ways of trying to handle these things.

AG: What do you think in terms of your interactions with Nike, in particular, what do you think facilitated a good working relationship between the UW, or the other colleges, and Nike? Were face-to-face meetings particularly important, or what sort of facilitated that working relationship?

ME: I think the face-to-face meetings were invaluable and that's just about building a relationship so that you start to develop some level of trust with each other, so you—they know both my seriousness of intent but, also, my inclination to work with them. We were all very frank with each other, saying "Look, we like Nike, we want you to be apart—we want to continue this relationship, but under these circumstances we just can't do that." I would often frame it in the context of "Don't put me in a position where I have to throw you off my campus, and right now you're doing that." They, in turn, would say, "Well here's some things, we just, you know, can't write them a \$3 million check." "Okay, then what can you do?" And then they start working from there.

AG: What would have been the likely alternative or the repercussions for you had the contract actually expired and the settlement hadn't been reached?

ME: I don't know. You know, that was one of the hard parts of the calculus—is I knew what one answer led to but I didn't know what the other answer led to exactly. Probably some great cries of hypocrisy because, remember there—I assume you're aware of this—we have two relationships with them. One is the relationship with the athletic department, which wasn't in question. It was the licensing of the shirts you and I buy at the store. I could have said, "Oh, we're yanking our license," and then everyone would have gone to the first football game and see Nike swishes all over the place then say, "Well, what's this about?" You know, that doesn't make sense, so I think it would have added a lot of confusion. I don't know what it would have done to our relationship with Nike, if they would have immediately fixed it and then come back and reapplied, like Russell did or was trying to do. I don't know. Glad we didn't have to find out.

AG: Were there other vendors that would have been under consideration if you'd had to replace Nike?

ME: Well, again, see on the licensing side, Nike doesn't have an exclusive license, so, you know, other people would have just stepped in who have licenses with us and the bookstore would have just gotten more Adidas stuff, I guess, or Russell—not Russell [Laughter], but other suppliers would have stepped into that—into that void I suspect. One of the problems, though, I think, is that Nike, because it's the 600 pound gorilla here, gets a lot more attention, and I don't know - our other vendors aren't doing everything perfectly but, the truth is, WRC and others don't go and look because they are so small. But once they became a larger vendor for us I would have said, "Now make sure they're doing it right." So, it's a little unclear where that would have led.

ML: Do you think this decision had an impact on any of the other suppliers and their practices?

ME: I sure hope so. You know, in an ideal scenario, I hope the other vendors were looking at this and that they start to self-police more effectively. And, similarly, I hope that it kind of empowers Nike to hold its competitors to a higher standard. You know, you probably need a situation where people in the industry are basically ratting each other out [Laughter]. Right? If Nike knows a vendor down the street in Honduras closed down and stiffed their people, and they hear all about it and say, “Oh, that’s company XYZ, they make t-shirts for so-and-so”. Because we don’t want to—just because Nike is the biggest, we don’t want them to be the only ones we hold accountable, and now that they reconciled this issue, you need to hold people accountable for bad behavior, but you also need to reward good behavior.

AG: I just want to go back really quick to the Code of Conduct issue. It seemed pretty clear that under the UW code of conduct Nike was in violation by not necessarily reporting the origin of all the apparel that was being produced. But there were claims by some advocates that, you know, it was their responsibility to provide the severance pay and that—under the code, and what was your perception of that?

ME: I think there was legitimate ambiguity about that and, in the end, Nike took responsibility for it, which was great.

ML: Yeah.

ME: And so I think it was, again, legitimate ambiguity and I suspect Nike concluded that, while they could make a quasi-legal argument that they didn’t have an obligation, in the end they still lost the argument. Because they lose in the court of public opinion and so there was no point in arguing it.

[TAPE ENDS]