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Paul Steiger
Editor in Chief, CEO, President, ProPublica

Stephen Engelberg
Managing Editor, ProPublica

Dear Mr. Steiger and Mr. Engelberg:

I write to address the significant misrepresentations published about me in Charles Ornstein and Tracy Weber's Dec. 23 article, "Two leaders in pain treatment have long ties to drug industry." ProPublica's work has always appeared to be very high quality, so I was shocked that this article based its damaging accusations about me solely on insinuations crafted from incomplete information, resulting in the reader being materially uninformed and misled. Misrepresentations run through every mention of me in your article. I have taken some time to obtain the opinions of respected journalists, publishers and ethicists about this article, all of whom agree the article is slanted, inadequately supported by facts, and reliant on innuendo to support its conclusions. Below are the specifics that relate to every mention of me in the article by which the reporters sustain their argument that I have corrupt "ties" to drug companies by playing fast and loose with the definition of "ties" and by withholding critical pertinent facts. Their case against me rests on the notion of an "indirect tie" that is so tenuous as to make anyone who has spoken at a conference, or worked at a university—or, for that matter, written for a newspaper—responsible for all the entities that provide funding for those institutions. That may be an effective, if spurious, way to link people to disliked companies or funders, but it's hardly a useful way of assessing a person's professional ethics. I am certain that this is not the quality of journalism on which ProPublica wants to base its reputation. ProPublica needs to retract this article.

As a first in many examples of the problem with the article, I spent a great deal of effort explaining to the reporters in writing about the difference between direct and indirect funding for medical education. The reporters may not have understood this because the reader is given the impression that I receive funds from drug companies to do teaching. All teaching activities that I participate in are continuing medical education (CME) programs certified by the Accreditation Council for Continuing Medical Education (ACCME), a nationwide system that

universities, professional organizations, as well as the FDA and medical boards, use to ensure that the information is accurate, impartial and free of conflicts of interest. The link to the ACCME policies is http://www.accme.org/dir_docs/doc_upload/8f4b847a-5917-4e4f-ae5f-ca0dc231dda7_uploaddocument.pdf. Many accredited CME activities may be funded by unrestricted educational grants from industry. When I participate in CME teaching, I do not control—indeed, in some cases I may not even know—the source of funding and (as for all speakers at all accredited CME events) all materials are required to go through a vetting process to ensure impartiality. The article implies that I am a corrupt educator because of such associations —despite the fact that in all of these programs the industry grants are “unrestricted” (meaning that the companies do not have a say in how they are spent), there are safeguards in place to avoid conflicts of interest, and I have no ties to the funding organizations. These critical facts were never mentioned by the reporters in their story.

The article also mentions my book, *Responsible Opioid Prescribing*, as further evidence of my continuing ties to drug companies, but neglects to mention that while the Federation of State Medical Boards partly funded printing and distribution of the books through state medical boards, and in turn was itself funded in part through unrestricted grants from industry, all aspects of the Federation’s own funding were *independent of my role*. Any reader of your story will have the impression I was “paid off” by the drug companies, when in fact; I was not paid to write the book and have not accepted royalties from sales of the book.

The article further implies that I lied to the *Journal of the American Medical Association* by withholding relevant affiliations, and falsely characterizes my letter to them as a “correction”. In fact, I made all relevant disclosure to the journal in the first instance, and only added additional entries, beyond the guidelines for relevant disclosure, for continuing medical education programs approved by the American Accreditation Council for Continuing Medical Education when these were later requested of me. Far from being evidence of my efforts to conceal inappropriate relationships, I believe this episode demonstrates the care I take in scrupulously observing both the letter and spirit of my professional obligations. Unfortunately, the reporters never asked me about this.

Moreover, the reporters again misrepresent my activities through implying that a single video of me -- speaking about the potential risks related to opioid abuse -- that appeared on a public service website sponsored by a drug company, was evidence that I maintain “ties” to drug companies. If the reporters had asked me about this, they would have found that the video was solely for informing the public about the risks of opioids, including death. The true facts are that I was not paid for any role in this video, I voluntarily agreed to participate solely as an educational program, the program was not tied to any particular drug, and the drug company never had permission to use my video on their corporate site and apologized and removed it once I brought it their attention.

Yet again, the reporters misrepresent me regarding “a strongly worded column in the Seattle Times opposing a bill passed by Washington State lawmakers.” On the surface, without any pertinent background, the reader is led to believe that I oppose a reasonable plan to require doctors to consult pain specialists before prescribing high doses of opioids. They never mention that many organizations opposed the premise of the bill such as the American Cancer Society. The reporters similarly neglect to inform the reader that the column asserts the need for strong regulatory solutions to the problem of prescription drug abuse and that it even criticizes the law as too weak in that “the message to prescribers emphasizes getting help too late — after dosing has already gone up rather than applying risk management at the beginning of treatment.” The ProPublica article never mentions that the column argues for strong regulation through prescription drug monitoring systems that can identify “doctor shoppers” which Washington State had abandoned for financial reasons. We were endorsing the same safeguards advocated by the Drug Czar and the DEA. Did your reporters simply not read the column or were they just too focused on portraying me as compromised by past industry “ties” to want to share relevant details and context with readers?

As anyone can see, throughout the article, I am misrepresented as having ties to the pharmaceutical industry -- direct and indirect. This is a wholly inaccurate assertion about me, not supported by the facts. The article further states that I terminated these ties only “in recent years” and only to avoid a perception of a conflict of interest. This is extremely misleading. I eliminated relationships with pharmaceutical companies more than five years ago (not “in recent years”) when drug companies began requiring physicians to use company-controlled materials—a condition that I found unacceptable (this information was provided the reporters in writing).

Finally, even the photo of me with the Surgeon General is taken out of context. The photo was taken in Washington DC after I had presented at the Surgeon General’s conference on drug abuse in children. Despite misrepresenting me as corrupted by pharmaceutical companies, the reporters made no effort to inform readers that I have been an early and staunch advocate of safety in pain management. Evidently, this and many similar relevant facts were withheld because they would undermine the reporter’s inherent argument that I am significantly compromised and deceitful. The reporters even subtly link their article to yellow-highlighted sentences from my extensive responses that support their unsubstantiated innuendos, without mentioning in the article that my full and extensive responses are available for readers to review. Although “Dr. Fishman’s response” is available as a link beside the article, the link for the full responses is white and easily missed, unlike the highlighted text within the article that is intended for readers to actively search. In contrast, it is highly disingenuous of ProPublica to publish my response with ProPublica’s yellow highlights – which deliberately directs readers to skim the response and read only these highlights out of context. Moreover, the reporters also fail to mention that I do not appear on ProPublica’s highly publicized “Dollars for Docs” registry or mention the reason why I do not appear, which is because I do not accept funding from pharmaceutical companies.

Despite my taking extensive steps to avoid conflicts of interest with the pharmaceutical industry – or even the appearance of such conflicts -- your reporters appear to have been determined to find a way to paint me as corruptly influenced by the drug industry, and were willing to offer misleading, incomplete and false evidence to support that outcome.

Is this ProPublica's idea of fair and balanced reporting? It is difficult to understand how ProPublica can justify such tactics or why ProPublica would allow itself to rely on such marginal reporting, as it can only undermine the credibility of this otherwise useful series. This naturally leads to questions about whether ProPublica is sincerely dedicated to fairness, a concern that is heightened by its lack of an ombudsman within the organization, or a traditional "letters to the editor section" anywhere on the site, as other major news organizations do.

Your mission statement online states: *"We strive to be fair. We give people and institutions that our reporting casts in an unfavorable light an opportunity to respond and make sincere and serious efforts to provide that opportunity before we publish. We listen to the response and adjust our reporting when appropriate. We aggressively edit every story we plan to publish, to assure its accuracy and fairness. If errors of fact or interpretation occur, we correct them quickly and clearly. We aim for a working culture that embraces all of these principles, and insist that they infuse all that we do."* I am appealing to you, as the two top editors at ProPublica to demonstrate the sincerity of ProPublica's goal of fairness and accuracy. The evidence of this article's poor standard of reporting stands in contrast to ProPublica's mission to support the public's need for the truth. By maligning educators like myself – who have taken reasonable steps to distance themselves from industry funding, while responding to the unmet medical education needs of clinicians who treat pain – ProPublica can only discourage such educational efforts by qualified and well-intentioned physicians. Without increased physician education by qualified specialists, the current public health crisis of prescription drug abuse is likely to continue and worsen. And patients in pain will continue to suffer the consequences of treatment by undertrained clinicians. For these reasons, and to restore my hard-earned reputation as a physician and educator, I insist that you retract this story immediately.

I look forward to your prompt response and action.

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