

# Observations About Silicon Valley Community Foundation From Outside Its Bubble

08.08.18 | Linda J. Rosenthal, JD



In [Secrets and Lies at Silicon Valley Community Foundation](#) and [Scandal Erupts at Silicon Valley Community Foundation](#), we began a multi-part series on the spectacular implosion of the nation's largest community foundation. The scandal that blew open the problems at this charity was a #MeToo tale of a toxic workplace that continued for over a decade.

We continue now with a look at the findings of the independent law firm's investigation into the allegations as well as commentary outside the bubble of the Silicon Valley Community Foundation (SVCF).

## *Law Firm Probes Foundation*

Just five days after Marc Gunther's Chronicle of Philanthropy article was published, the Silicon Valley Community Foundation retained the prominent law firm Boies Schiller Flexner LLP to conduct an investigation into allegations by "current and former employees" of "accounts of workplace harassment and bullying [by Mari Ellen Loijens] as well as their "concerns about an unhealthy workplace environment..."

A day or so before publication of the Gunther allegations, Dr. Emmett Carson, CEO, had retained a different firm to start a probe of the specific allegations against Ms. Loijens; apparently, some work was begun when the Boies firm was retained. The work in progress was reviewed and used to some extent by the second firm in its report.

In a press release issued by the Board on June 27, 2018, SVCF's governing body explained the substitution: "When the broader workplace concerns came to the Board's attention, the Board hired BSF and directed BSF to assume responsibility for and expand the investigation, in an effort to

preserve both the actual and apparent independence of the investigation.” Translation: One of the two people most implicated in the “toxic workplace” allegations should not hire the law firm conducting the investigation.

The Boies probe progressed rapidly and comprehensively – albeit within the specified parameters. The Board had asked Boise to issue a summary of “its findings about SVCF’s work environment and its recommendations for improving workplace policies and procedures.” By June 15, 2018, the Boies team issued a detailed, confidential report; on June 27, 2018, [a 14-page summary](#) was released to the public.

Right out of the gate was the confirmation that Dr. Carson – who had been placed earlier on paid administrative leave – was terminated effective immediately with the Board of Directors’ June 27th public announcement. The Boies report “has not recommended further investigation regarding ... personnel” other than Ms. Loijens and the head of human resources who had resigned,” but elsewhere in the report, the investigators noted that the oppressive workplace environment was created and maintained by some (unnamed) senior executives beyond Dr. Carson and Ms. Loijens. The Boies team made clear that not only were the whistleblowers’ claims valid but that, on deeper probing, there were “worse” and additional instances.

The Boies report noted there was a pervasive “fear of speaking out or reporting workplace issues out of concern for retaliation,” a distrust of the H.R. department, and a “top down, ‘command and control’ management style.” The message, apparently, was loud and clear: If you don’t like it here, you’re free to leave right now.

The key recommendations of the Boies team report include a comprehensive review and overhaul of all systems and safeguards to avoid any kind of hostile workplace environment in the future, including a “zero tolerance policy” for retaliation.

The report also addresses the systemic problems that led to senior management being able to hide information from the Board. There had been no procedures in place to bypass the former CEO’s “tight control of the flow of information” which was often “incomplete and misleading.” The Board unanimously accepted the recommendations for change.

While the Boies team did not recommend “conducting an expanded investigation into areas of SVCF beyond the workplace culture,” and made clear that “no financial improprieties were discovered,” there were some additional, interesting, points made in the report.

First, the Boies team suggested that the Board “reevaluate ... SVCF’s prioritization of growth, especially regarding assets under management.” This reflected a prevalent gripe by many workers – echoed by some donors, too – that SVCF’s servicing of its accounts had deteriorated precipitously as more and more money flowed into the Foundation. Management failed to scale up to meet the demand. First, the technology was outdated and entirely insufficient for the volume and amount of assets under management. Second, there were too few workers; employees were overworked and burned out.

A related recommendation is to work with all staff to “assess whether” the foundation’s “previously defined long-term goals for the organization” – including its “Vision 2025” – remains a “good fit.”

This last recommendation appears to push the envelope somewhat on the designated scope of the probe, but it's an important point that reflects some of the criticism swirling in the philanthropic community about larger issues and problems of the Silicon Valley Community Foundation.

## *Outside the Foundation's Bubble*

In the three months since the Silicon Valley Community Foundation scandal made headlines, it seems that almost everyone with an opinion or observation has published something on the subject in a full-blown article or op-ed or in a blog post.

Investigative reporter Marc Gunther wrote the key article published in the Chronicle of Philanthropy that broke open the scandal: *A Star Performer Created a 'Toxic Culture' at the Silicon Valley Community Foundation, Say Insiders* (4/18/18), with a follow-up blog post: *Transparency, Accountancy, and a Troubled Workplace at the Silicon Valley Community Foundation* (4/19/18).

He followed up quickly with additional posts: *Emmett Carson's credibility problem* (4/23/18) and *Emmett Carson: The endgame begins* (4/26/18).

See also, for example:

- *Amid Scandal, Silicon Valley Community Foundation should rethink priorities* (Eduardo Andino, *Philanthropy Daily*, 4/26/18)
- *Mark Zuckerberg-Connected Charity At Risk of Implosion* (Kerry Dolan, *Forbes*, 5/2/18)
- *A Bubble Bursts* (Alan Cantor, 5/7/18)
- *Inside a Powerful Silicon Valley Charity, A Toxic Culture Festered* (David Gelles, *The New York Times*, 5/11/18)
- *Silicon Valley Community Foundation "Serves the Community" Very Differently* (Ruth McCambridge, *The Nonprofit Quarterly*, 6/12/17)
- *Silicon Valley's cautionary tale shows what can go wrong when charities get obsessed with growth* (Prof. Brian Mittendorf, *OSU, The Conversation*, 7/9/18)

Among the many useful observations in these articles are thoughts by Alan Cantor: "Many aspects of this story – with the unusual twist of having a woman, rather than a man, in the role of the sexual harasser-in-chief could have happened nearly anywhere in the business or nonprofit world."

He added: "But the problems at SVCF went well beyond everyday poor management. This was an organization in dysfunction overdrive, thanks to three overriding characteristics: an obsession with pleasing rich donors, a striking lack of transparency, and an embrace of growth for growth's sake. And I would argue that what amplified these characteristics into such a public meltdown was SVCF's primary role as a sponsor of donor-advised funds (DAFs)."

Professor Brian Mittendorf has similar conclusions: "As a researcher who studies the finances of charities and their funders, I consider the foundation's culture extreme. But I also find it a cautionary

tale for all charities.”

## *Conclusion*

The next installment will focus on the course taken under the leadership of now-ousted CEO Dr. Emmett D. Carson; that is, breaking this community foundation out of the traditional limits of a *community* focus, with an emphasis of “growth, growth, and more growth.” It has been controversial for some time, but the SVCF scandal has pushed this debate out into the open.