

Gregorio Olivares Gutierrez's rebuttal to Lydia Lum's memo, presented at and written copy provided to all attendees of the Sept. 13 SMOB meeting.

Editor's note: This is a copy of the original document Olivares shared with the Student Media Operating Board. The Mercury has redacted the name and identifying information of a management member who has been the target of misconduct from Lum. The text is otherwise unchanged from the original.

Lydia has informed me that I only have 5-10 minutes to respond to her accusations and her demand for my immediate removal from office, so I will keep my remarks brief. As a preliminary summary, I reject all three of her reasons.

The Student Media bylaws, last updated nearly 7 years ago(2017), in section 2.4(b) stipulate that the EIC and ME may not hold positions as "student employees at the university." The bylaws do not define what a student employee is. The UTD website does however elaborate on institutional policy regarding student employment: 1) All student employees are hired in accordance with applicable federal and state employment guidelines and go through a full onboarding process facilitated by the Student Employment Offices in partnership with human resources, which neither housing nor StuMe adhere to. 2) UTD has what are known as "student roles" separate from student employment which are not overseen by the office of student employment: these include retail employment for on-campus restaurants, assistantships with professors and researchers and stipend roles such as those found in student media and housing. Housing offered me a position to become a PA during the Summer when Jenni Huffenberger served as interim director. Because of my confusion with the vague language of the bylaws, I consulted the UTD website which indicated that EIC and PA were considered "student roles" instead of employees, and Jenni confirmed that UTD policy permitted cross department stipends and that while some organizations such as UREC permitted double stipends within the department, she would not permit departmental "double dipping" in Student media under her jurisdiction: a practice which overturned years of precedent set by former Director Chad Thomas and former interim director Jonathan Stewart, and most clearly applied to our former Distribution Manager Andre Averion. Lydia has reaffirmed her commitment to this choice which Mercury management has disagreed with but respected.

In regards to budget overruns, I have been pushing since Jenni was interim director for *The Mercury* management team to have access to both our total contributor budget and our total operating budget, which covers printing costs in addition to travel and I presume miscellaneous costs. I have pushed for this information since I literally cannot make informed decisions about costs if I am not provided with budgetary information. My persistence over the summer first awarded me with the vague notion of about \$1,000 available in contributor pay for each cycle. Continued requests for information resulted in Jenni providing me with *The Mercury*'s fiscal year 2019 budget request report which listed our contributor budget as \$19,123 which divided among our 19 publications per fiscal year results in \$1,006.47 available for staff per cycle. With the understanding that these are 5 year old numbers, I set the maximum for *The Mercury* at \$850 per cycle for staff. May 20 came out at \$350 in staff pay. July 15 was \$260. August 19 was \$400, and September 3 was \$545. We had 3 non-management writers at the start of the summer. After reviewing over 100 writer applications and interviewing 40+ writers, this number is now at 19 with 10 more candidates currently under review. I have made informed and fiscally conservative hiring decisions because I had access to information that is albeit outdated but still useful.

Despite repeated requests for the budget of *The Mercury*, Lydia has failed to provide me with any updated figures. All I have to work off of is a report from fiscal year 2019 that covers only the contributor and stipend parts of our budget. In the 2023-2024 academic school year *The Mercury* published 8, 10, 12, 14, and even 16 page newspapers based on the amount of news to cover. Not once did the director disclose to me what her print plan was despite my repeated requests for those figures, or at the bare minimum the guidelines she has listed out in her description of violation 2. When Lydia informed me about the cost overrun and what we would have to do to make up for it, that being doing 12 page 1,600 issue runs for the September 16 and 30 issues I complied since it is a financial decision she made based on finances I was not made aware of despite repeated requests. You might ask "why did *The Mercury* print more copies than usual?" And the answer is because under my tenure we have seen unprecedented levels of physical readership. Typical summer pickup rates for *The Mercury* are between 40% in bad cycles to 60% in better cycles. Spring 24, which was one of our highest performing semesters, had an average pickup rate of 66.204%. Summer 24, which includes the May 20, July 15 and August 19 publications has an average pick up rate of 88.63% which is a 22.426% increase in pick up-rate

making this the highest performing summer on record for the print version of *The Mercury* and just generally one of our highest performing periods in general. The May 20 issue has our highest recorded pick up rate at a whopping 99.07%. The August 19 issue which had more printed copies stood at again a record breaking 82.75% pick-up rate. I have requested multiple times for Lydia to provide *The Mercury* with budgetary information which she has hitherto denied thus inhibiting my ability to stay within budget since I was literally not told what the budget was despite my repeated requests.

I spent the summer reaching out to past Mercury EIC's, in addition to professional journalists and lawyers, in an attempt to understand the functions of my role since the bylaws do not provide a representative overview of what *The Mercury* EIC actually does. Through my discussions I placed a particular emphasis on the role of the advisor since my tenure coincided with the unprecedented and sudden demotion of our former advisor Jonathan Stewart. Jonathan not only balanced all of Lydia's workload as interim director, but he did it without any sort of assistant director. Jonathan went above and beyond to communicate with advisors at peer institutions when he didn't have the answers, and this in turn led to him providing incredibly valuable and informative critique for each issue which he fully read. Our section editors have interacted quite heavily with Lydia as she brings them in for pop-up critique during their office hours. This in and of itself isn't an issue; however, the section editors have remarked that they don't feel that anything Lydia has given them so far has been worthwhile. Paola Martinez and Kavya Racheeti have both been subjected to critique for articles that aren't even in the sections they oversee, and Kavya said that Lydia has gone so far as to tell the editors that she doesn't read the articles beforehand and instead critiques it in the moment leading to what Kavya described as "lazy and disorganized" work. I do not understand the pedagogy behind Lydia's critiques thus far. I understood how Jonathan did advising since he was the director for my entire time as a writer and then news editor, but I wanted to know what it had been like under the previous director Chad Thomas who formed student media into what it is today as a union of four sister organizations. From this I learned 3 key things: firstly, the advisor's primary role was critique of an issue since their professional eye could help us improve and teach writers how to improve as well; secondly, the EIC met on a weekly basis with the advisor to update them on Mercury matters; and thirdly, the advisor was a resource students could come to when they had questions

or doubts about how they were approaching coverage. We have done all of these things. I have kept Lydia updated on what topics we are covering in the paper, I have run story ideas by her, I have consulted her on questions when it comes to more bureaucratic procedures such as disclaimers for stories, and I have given her hour long presentations on the state of our publication, the issues we face, our successes, and our outreach data. The one line we have is prior review. At the Summer ACP conference and workshop *The Mercury* attended, I learned that many college publications had begun adopting mission statements, something *The Mercury* did not have. So, I worked with the management team to draft our official mission statement, which can be found on our new and improved website. The first sentence of *The Mercury*'s mission statement is: "The Mercury is an award-winning, editorially independent news publication that focuses on UTD, its people and its surrounding communities." A crucial part of this statement is our commitment to being "editorially independent." As a student-run publication, everything *The Mercury* creates is made by current UTD undergraduate and graduate students, and decisions about coverage, distribution and internal operations are made by the students themselves—not outside administrators. Part of editorial independence includes resisting prior review; that is, allowing administrators, sources and other overseers to view or change articles prior to their publication. Banning prior review protects both the independence of *The Mercury*'s content from outside intervention and lessens the pressure on Student Media in cases where *The Mercury* publishes something UTD's administration dislikes — it is difficult to punish the Director of Student Media for a bold newspaper team when the director has no say over its content. The director has historically had no ability to unilaterally review or censor our material beforehand. Allowing the director to view our content and influence our meetings prior to publication, as Lydia desires, entails a new form of administrative censorship against *The Mercury*.

Organizations such as the Foundation of Individual Rights and Expression, the Student Press Law Center, the Associated Collegiate Press, and the College Media Association all advise against prior review because of the danger it poses to college press. In our September 11 meeting with *The Dallas Morning News*, the third such multi-hour in-person visit with them since my tenure began, their assistant breaking news editor and equity reporter Leah Waters, a former student media advisor, asked about our relationship with Lydia and told us that we should under no circumstances submit our articles to prior review. We will and have come to Lydia with questions about our articles when they arise, but we will not concede to prior review because it is

such a flagrant violation of the Society of Professional Journalists code of ethics. Lydia has told me that at *The Horizon*, Indiana University Southeast's student publication, she did play an active part in the articles of all of her staff since they chose to come to her for prior review. I understand that this is what Lydia was accustomed to, but it is not the norm across student publications in the US. UTD is ten times larger than Lydia's former institution and our management team alone rivals the size of *The Horizon*, a paper which has not published a single article since May of 2023. When Lydia left *The Horizon*, also in May of 2023, the publication died. The level of prior review Lydia enacted not only was ethically dubious, but it made *The Horizon* so reliant solely on her that when she left publication ceased. *The Mercury* has developed training methods, workshops, and shadowing programs meant to help our writers learn and grow while remaining self-sufficient, and we are currently working with *The Dallas Morning News* to bring staff to their office and their reporters to ours now that I have established a relationship with the editors and reporters at the DMN. My goal is to stop *The Mercury* from dying, and so far we have broken outreach records, gained awards, and made new relationships with industry professionals under my tenure. I am committed to continuing these learning opportunities and expanding the resources available to our staff, and have thus far been successful. We even made an entirely new meeting after pitch, requiring management members to take more time out of their busy days, so that Lydia can be updated on literally all of our stories for a cycle. We have not bypassed advisor involvement. We have provided more opportunities for Lydia to be involved in our news process while ensuring our own ethical integrity by maintaining *The Mercury's* long standing prohibition on prior review.

I am truly baffled by the notion that I have tried to prevent Lydia from attending meetings or interacting with our staff since as stated earlier, we have created new opportunities for her to engage with us and receive unprecedented levels of information, and 2: a part of every in-person onboarding I do is bringing the new staff or management member to Lydia's office and introducing them to her when she is there, not only do I introduce her as our director but as a valuable resource they can come to when they have questions. I go out of my way to let staff know that Lydia exists and how they can interact with her, it is up to them whether they do or not. Most do not; not because of some cruel decree I have given out, but more so because they either haven't felt the need to ask her questions or they simply don't like talking to Lydia. Like

UTD, *The Mercury* is an incredibly diverse organization. White members and cisgender heterosexual members are the minority at our publication. I bring this up because it is precisely on these grounds that staff have come to me with complaints about Lydia's behavior. For brevity I will not list them all out, but the two most egregious interactions so far have been with two management members. Lydia called one of them into a private meeting where she went out of her way to say their dead name to them and let them know that she knows their dead name since it was in the payroll system. This management member told me that this made them deeply uncomfortable to such an extent that they were contemplating quitting *The Mercury* if Lydia ever did something like this again. This is a perfectly normal reaction to something as egregious as calling a meeting to say someone's dead name to them, and this management member is not our only trans staff member. I immediately had a meeting with Lydia letting her know that she should never do something like this again. I also told this management member that they were not obligated to speak with Lydia if she made them feel unsafe or uncomfortable since I could answer her questions when they arose. This management member said they were fine for the time being. During an August 23 critique meeting, whose details I go into more depth on in my Editor's Desk titled "Business Decisions," Lydia told social media manager Carlotta Fernandez, in a contentious moment after having given us the ultimatum of banning our travel unless we submitted to prior review, that if she was so good at summarizing things, since she had summarized previous points, that she should summarize everything Gregorio and Maria had just said. This was Carlotta's first week at *The Mercury*, first week in college, and first management meeting ever and Lydia went out of her way to pressure and humiliate her despite all of this. After the critique Carlotta told me that she felt absolutely terrible because of how Lydia spoke to her. As such I immediately went and spoke to Lydia and asked her to send an apology to Carlotta. During this meeting Lydia disclosed that she had not read all of the articles in the August 19 issue before giving critique despite the offer to postpone critique if she needed more time to finish reading. Despite this she spent 2 hours broadly generalizing and critiquing a paper which she had not finished analyzing in its entirety, the minimum requirement for providing valuable critical critique like what has always been offered by *The Mercury* advisor in the past. I can tell staff that Lydia is a valuable resource during every onboarding, as I already do, but the onus falls upon Lydia to present herself to staff as someone they can trust in and feel comfortable enough around to come to. Our staff comes to *The Mercury* because our management has worked

diligently to make it a safe space for them, it falls on Lydia to do the same if she wants more interaction with staff.

A key tenant of the new Mercury policy is transparency, so I am more than happy to provide recordings, emails and teams messages as requested. I am also happy to answer any questions you may have. I hope that future SMOB meetings can have their time better allocated to having the SMOB board review and provide comments on Mercury policy now that SMOB is in session.

On September 12, the Managing Editor of *The Mercury*, Maria Shaikh organized a vote among Mercury management, from which I excluded myself since it concerned me, in which management voted without dissent to strike if Lydia removes me from office. Lydia already killed one publication, don't let her kill another.