

# “PAY FOR PLAY” SCANDAL AT THE BETTER BUSINESS BUREAU LEADS TO CONSUMER MISTRUST OF THE BUSINESS RATING ORGANIZATION

*By Troy Fleming\**

## *I. Introduction*

Recently, the head of the Better Business Bureau’s (“BBB”) Los Angeles chapter, William Mitchell, resigned amid a scandal over the organization’s new letter grade rating system and a controversy over his excessive salary.<sup>1</sup> The BBB, a not-for-profit national organization whose original mission was to issue ratings to businesses based on how fairly they treated consumers, has been criticized in recent months for giving businesses better grades if they agreed to become dues-paying members of the organization.<sup>2</sup> In response to the scandal and in the face of growing public criticism, the BBB announced that it would stop giving higher grades to businesses based solely on paid membership and that it would reexamine its overall rating system.<sup>3</sup> This article presents the history of the BBB and its mission to be a company that consumers and businesses can trust, and examines the consumer mistrust created by a scandal which alleged that good ratings can be bought for the right price.

## *II. History and Structure of the Better Business Bureau*

The BBB, founded in 1912, is a corporation consisting of several private business franchises of local BBB organizations

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<sup>1</sup> Sharon Bernstein, *Head of L.A.-area BBB resigns amid scandal*, L.A. TIMES, Dec. 27, 2010 [hereinafter Bernstein, *Head Resigns*], available at <http://articles.latimes.com/2010/dec/27/business/la-fi-bbb-ceo-resigns-20101228>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

based in the United States and Canada, which work together under the umbrella of the Council of Better Business Bureaus (“CBBB”).<sup>4</sup> This organizational structure was established by advertising executives after they recognized that fraudulent practices by some advertisers were bringing advertising into general public disfavor.<sup>5</sup> In response to this public opinion, these executives formed a National Vigilance Committee to police the industry with subsidiary organizations formed at the local level, and these subsidiary organizations eventually became known as Better Business Bureaus.<sup>6</sup> The regional BBBs are independently governed by their own boards of directors; they must, however, meet national BBB requirements that are monitored and enforced by the CBBB.<sup>7</sup> The CBBB, on the other hand, is governed by, among others, leaders of local BBBs, senior executives from member corporations, and public members (e.g., legal experts, legal scholars, etc.).<sup>8</sup>

Each local BBB entity is run independently from the others.<sup>9</sup> Businesses are usually accredited by their local entity, and if they move from one BBB jurisdiction to another they may need to (re)apply for BBB accreditation in the new BBB location, unless they have earned a system-wide accreditation.<sup>10</sup> Local BBB entities are chiefly funded by dues paid by member businesses.<sup>11</sup> Conversely, the national CBBB receives its funding through franchise fees.<sup>12</sup> In addition, the national CBBB also receives additional funding from corporate partners and sponsors.<sup>13</sup>

Today, the 122 local BBBs serve and assist communities across the United States and Canada by evaluating and

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<sup>4</sup> *Better Business Bureau*, BRITANNICA ONLINE ENCYCLOPEDIA, <http://www.britannica.com/EBchecked/topic/63551/Better-Business-Bureau> (last visited Feb. 15, 2011).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Executive Search*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/executive-search> (last visited Feb. 15, 2011).

<sup>8</sup> *CBBB Board of Directors*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/cbbb-board-of-directors> (last visited Feb. 15, 2011).

<sup>9</sup> *Executive Search*, *supra* note 7.

<sup>10</sup> *Id.*

<sup>11</sup> Neil Parmer, *Is the BBB too Cozy with the Firms it Monitors?*, SMART MONEY MAGAZINE, Sept. 24, 2008, available at <http://www.smartmoney.com/investing/economy/Investigating-the-Better-Business-Bureau-23879/?page=all>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

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monitoring more than 3 million local and national businesses and charities.<sup>14</sup> Each year more than 65 million consumers rely on the BBB to help them find trustworthy businesses and charities across North America.<sup>15</sup>

*III. Goals and Mission of the Better Business Bureau*

The BBB’s goal is to foster a fair and effective marketplace for both buyers and sellers.<sup>16</sup> The organization is sponsored by all different parts of the business community and is well known for setting standards for business practices, receiving and investigating complaints of improper business practices, conducting educational campaigns, and alerting the public to methods of deceit and fraud in advertising and selling.<sup>17</sup>

The BBB states its vision is one of “an ethical marketplace where buyers and sellers can trust each other.”<sup>18</sup> It also claims that its mission is “to be the leader in advancing marketplace trust,” and it attempts to accomplish this mission by “creating a community of trustworthy businesses, setting standards for marketplace trust, encouraging and supporting best practices, celebrating marketplace role models, and denouncing substandard marketplace behavior.”<sup>19</sup> The BBB makes the lofty claim that it is “the resource to turn to for objective, unbiased information on businesses.”<sup>20</sup>

As a means to help accomplish its mission, the BBB insists that it is committed to following a set of values that guides all of its decisions and behavior, both between its chapters and with all those it serves - values that include excellence, integrity, teamwork, trust, and respect.<sup>21</sup> The BBB equates integrity with honest and ethical business dealings. This means treating businesses and consumers alike with integrity, upholding promises, learning from mistakes, and having the courage to hold

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<sup>14</sup> *BBB Structure*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/BBB-Structure> (last visited Feb. 15, 2011).

<sup>15</sup> *BBB Takes Action*, U.S. BETTER BUSINESS BUREAU, Nov. 18, 2010, <http://www.bbb.org/us/article/bbb-takes-action-23670> (last visited Feb. 15, 2011).

<sup>16</sup> *Vision, Mission and Values*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/BBB-Mission> (last visited Feb. 15, 2011).

<sup>17</sup> *Better Business Bureau*, *supra* note 4.

<sup>18</sup> *Vision, Mission and Values*, *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

fast to its professional convictions.<sup>22</sup>

*IV. Trust - the Lynchpin of the Entire Better Business Bureau System*

The BBB believes consumer trust in a business is a function of two primary factors – integrity and performance.<sup>23</sup> A business’s integrity should include respect, ethics, and intent; a business’s performance, on the other hand, “speaks to its record of accomplishment in accordance with BBB standards and/or addressing customer concerns in a timely, satisfactory manner.”<sup>24</sup> One of the BBB’s primary concerns is to ensure that high standards for trust between consumers and businesses are set and maintained.<sup>25</sup> Part of the BBB’s mission statement explicitly expounds: “We exist so consumers and businesses alike have an unbiased source to guide them on matters of trust.”<sup>26</sup>

All BBB-accredited businesses must agree to aspire to the BBB’s Standards for Trust.<sup>27</sup> The Standards for Trust are “a comprehensive set of policies, procedures, and best practices focused on how businesses should treat the public – fairly and honestly in all circumstances.”<sup>28</sup> These standards include building trust, advertising honestly, truthfulness, promoting transparency, honoring promises, being responsive, safeguarding privacy, and embodying integrity.<sup>29</sup> The BBB defines truthfulness and transparency under the Standards for Trust as follows:

Telling the Truth - Honestly represent products and services, including clear and adequate disclosures of all material terms;

Be Transparent - Openly identify the nature, location, and ownership of the business, and clearly disclose all policies, guarantees and procedures that bear on a

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *BBB Standards for Trust*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/bbb-standards-for-trust> (last visited Feb. 15, 2011).

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customer’s decision to buy.<sup>30</sup>

The BBB’s final Standard for Trust is integrity. Integrity is a word which is continually used by the BBB in regards to their overall system. “Integrity” should help guide an organization in its approach to all business dealings, marketplace transactions and commitments.<sup>31</sup> In regards to business and consumer trust, the BBB purports that it is “your key advisor, most reliable evaluator and most objective expert on the topic of trust in the marketplace.”<sup>32</sup>

#### V. Accreditation in the Better Business Bureau

In order to be accredited by the BBB, a business must meet a set of accreditation standards.<sup>33</sup> These standards are outlined in the BBB’s Code of Business Practices (“the Code”).<sup>34</sup> The Code preaches “sound advertising, selling and customer service practices that enhance customer trust and confidence in businesses.”<sup>35</sup> The Code is grounded in the BBB’s Standards for Trust.<sup>36</sup> One of the foundational principles of the Code is a commitment by a business to make a good faith effort to resolve any consumer complaints.<sup>37</sup>

Businesses based in the United States and Canada that meet the Code’s standards and complete all application procedures are accredited by the BBB.<sup>38</sup> Accreditation, however, does not necessarily mean that the business’ products or services have been evaluated or endorsed by the BBB,<sup>39</sup> rather the BBB makes clear that “businesses are under no obligation to seek BBB accreditation, and some businesses are not accredited because they have not sought accreditation or are ineligible.”<sup>40</sup>

The BBB does not compare businesses against one

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Vision, Mission and Values*, *supra* note 16.

<sup>33</sup> *About BBB Accreditation*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/Business-Accreditation> (last visited Feb. 18, 2011).

<sup>34</sup> *Id.*

<sup>35</sup> *BBB Code of Business Practices (BBB Accreditation Standards)*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/bbb/bbb-accreditation-standards> (last visited Feb. 18, 2011).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *About BBB Accreditation*, *supra* note 33.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

another, but rather evaluates businesses against its own standards, which it claims, “clearly speak to the character and competence of an organization.”<sup>41</sup> To advertise BBB affiliation, an accredited business must meet BBB accreditation standards and sign a license agreement.<sup>42</sup> Accredited businesses must pay a fee for accreditation review and monitoring, and for general support of BBB services to the public.<sup>43</sup>

In October 2007, as part of its strategy to build trust in the marketplace, the BBB also changed the way affiliated businesses were designated, from “BBB Member” to “BBB Accredited Business.”<sup>44</sup> The BBB wanted consumers to know that “The ‘Accredited’ designation highlights the fact that businesses have been evaluated by the BBB and have contractually agreed to meet and uphold BBB’s high standards for integrity and reliability when dealing with consumers.”<sup>45</sup>

#### *VI. The Better Business Bureau Moves to a New Grading System for Businesses*

William Mitchell, CEO of the Los Angeles chapter of the BBB (“L.A. BBB”), devised a letter-grading system to replace the national BBB’s well-known “satisfactory/unsatisfactory” rating system, and used it in the L.A. chapter prior to the national BBB’s adoption of the plan.<sup>46</sup> The BBB adopted Mitchell’s controversial grading system nationwide in January 2009.<sup>47</sup> In order to give consumers a helpful tool to quickly evaluate the reliability of competing businesses, the BBB decided to prominently display the new letter grades on the front page of their business reports.<sup>48</sup> This system is touted by the BBB as part of its “ongoing commitment to making it easier for consumers to

<sup>41</sup> *Vision, Mission and Values*, *supra* note 16.

<sup>42</sup> *Advertising BBB Accreditation*, U.S. BETTER BUSINESS BUREAU, <http://www.bbb.org/us/BBB-Seal-Program> (last visited Feb. 18, 2011).

<sup>43</sup> *About BBB Accreditation*, *supra* note 33.

<sup>44</sup> *BBB Changes Its Business Ratings to A+ Through F Letter-Grade Scale*, U.S. BETTER BUSINESS BUREAU (Jan. 6, 2009), <http://www.bbb.org/us/article/bbb-changes-its-business-ratings-to-a-through-f-letter-grade-scale-8507> [hereinafter *Changes*].

<sup>45</sup> *Id.*

<sup>46</sup> Joseph Rhee, *Controversial Head of L.A. Better Business Bureau Chapter Quits Job*, ABC NEWS (Dec. 22, 2010), <http://abcnews.go.com/Blotter/la-business-bureau-chapter-head-bill-mitchell-quits/story?id=12458713&page=1> [hereinafter Rhee, *Controversial Head Quits*].

<sup>47</sup> *Id.*

<sup>48</sup> *Changes*, *supra* note 44.

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find trustworthy businesses.”<sup>49</sup>

Before giving companies a letter grade, the BBB plugs a company’s information and business behavior into an intricate proprietary ratings formula.<sup>50</sup> The letter-grade ratings formula, which the BBB’s website says reflects whether a business is “operating in a trustworthy manner,” takes into account sixteen different weighted factors, including the number of consumer complaints lodged against a business and the length of time that that business has been in operation.<sup>51</sup> The ratings also consider whether or not a business was willing to become what the BBB termed an “accredited dues-paying member” of the organization.<sup>52</sup>

The BBB’s initial intention for the letter-grade ratings system was to establish “a valuable new resource that consumers could start with when they were looking for a trustworthy business.”<sup>53</sup> Ultimately, the BBB wanted a letter-grade rating system that would “represent their degree of confidence that a given business was operating in a trustworthy manner and would make a good faith effort to resolve any customer concerns.”<sup>54</sup>

*VII. Pay for Play Scandal Over the New Rating System Breaks on ABC’s 20/20 and Leads to Questions About the Better Business Bureau’s Own Trustworthiness*

On November 12, 2010, the ABC television program “20/20” featured a lead story entitled “Brian Ross Investigates: Better Business Bureau Probe.”<sup>55</sup> In this report, the BBB was accused by business owners of running a “pay for play” scheme in which better grades were awarded by the BBB to those businesses who paid membership fees, while those that did not were ‘punished’ with poor grades.<sup>56</sup>

The ABC News investigation documented how two small

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<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Sharon Bernstein, *Better Business Bureau says it will change its rating system*, L.A. TIMES, Nov. 19, 2010 [hereinafter Bernstein, *BBB Change*], available at <http://articles.latimes.com/2010/nov/19/business/la-fi-bbb-ratings-20101119>.

<sup>52</sup> *Id.*

<sup>53</sup> *Changes*, *supra* note 44.

<sup>54</sup> *Id.*

<sup>55</sup> See *20/20: Brian Ross Investigates: Better Business Bureau Probe*, (ABC television broadcast Nov. 12, 2010), available at [lexisnexis.com](http://lexisnexis.com).

<sup>56</sup> Joseph Rhee & Brian Ross, *Terror Group Gets ‘A’ Rating From Better Business Bureau?*, ABC NEWS (Nov. 12, 2010), <http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843>.

Los Angeles businesses were told by BBB telemarketers that their “C” grades could be raised to “A-plus” ratings if they paid the necessary fees to join the BBB.<sup>57</sup> One company, with only one consumer complaint, paid a \$565 membership fee and the next business day saw its “C” grade was replaced with an “A-plus,” while another company’s “C-minus” was upgraded to an “A-plus” merely one day after it paid the requested \$395 membership charge.<sup>58</sup> One business owner even posited, “If I’m paying for a grade, how is the customer supposed to trust the Better Business Bureau?”<sup>59</sup>

ABC’s investigation further documented how phony companies that paid membership fees were awarded “A” ratings by the L.A. BBB.<sup>60</sup> For example, the report highlighted how a group of business owners in Los Angeles paid \$425 to their local BBB and earned an “A-minus” grade for a non-existent company called Hamas, named after the Middle East terror group.<sup>61</sup> In addition, the BBB also gave an “A-minus” rating to a sushi restaurant in Santa Ana, California that was not real, and an “A-plus” rating to, of all things, a white supremacist website called Stormfront.<sup>62</sup>

The investigation was not localized to California. ABC stations in a six other cities conducted their own investigations of the jurisdictions’ respective BBBs and found similar parallels between membership fees and grade ratings.<sup>63</sup> Numerous examples were found of well-known companies that refused to pay dues to the BBB and were subsequently branded with “F” grades, often apparently based on scant evidence or a small number of complaints.<sup>64</sup> For example, the well-known and highly respected Ritz Carlton Hotel in Boston, which refused to pay

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<sup>57</sup> Rhee, *Controversial Head Quits*, *supra* note 46.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Sharon Bernstein, *Top executive at Better Business Bureau's L.A. branch earns more than \$400,000 a year*, L.A. TIMES, Nov. 19, 2010 [hereinafter Bernstein, *Top Executive Earnings*], available at <http://articles.latimes.com/print/2010/nov/24/business/la-fi-bbb-20101124>.

<sup>61</sup> Joseph Rhee, *Better Business Bureau Says It Will Stop Awarding Good Grades for Cash*, ABC NEWS (Nov. 18, 2010), <http://abcnews.go.com/Blotter/business-bureau-grading-system/story?id=12181543>.

<sup>62</sup> *Id.*

<sup>63</sup> Mark Schone, *Why did the Ritz Carlton Get an F?*, ABC NEWS (Nov. 15, 2010), <http://abcnews.go.com/Blotter/business-bureau-ritz-carlton/story?id=1215115>.

<sup>64</sup> See Rhee & Ross, *supra* note 56.

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membership dues, was given an untenable “F” rating after only two complaints.<sup>65</sup> In addition, celebrity chef Wolfgang Puck told reporters that he believed that parts of his food and restaurant empire received “F” grades because he would not pay to join the BBB.<sup>66</sup> “I think where you have to join an organization to get a good grade is wrong,” Puck said.<sup>67</sup>

After reporters raised probing questions about why poor grades were given to specific non-member businesses in the Boston area, the BBB, apparently in response to the probe, quickly took action and raised those businesses’ grades.<sup>68</sup> For example, days after being contacted by ABC, the Ritz Carlton Hotel went from a failing grade to the top of the class and now has an “A” rating.<sup>69</sup> As a result of the ABC report, the average consumer could reasonably infer that information the BBB was giving out about businesses was not as accurate and objective as the BBB held it out to be – an inference that could engender systemic consumer mistrust of the BBB’s entire operation.

*VIII. Investigation Reveals Large Salary for Non-Profit Better  
Business Bureau Executive who Devised the Controversial  
Rating System*

During the course of a scandal, it is often informative to follow the money trail and take a closer look at the compensation of the scandal’s key player(s). In this case it is especially informative to look at the key player’s compensation in relation to other similarly situated executives in his own organization. The CEOs of the San Diego and Chicago BBBs bring in salaries of about \$206,000 per year, while the head of the BBB office in New York earns around \$175,000 annually.<sup>70</sup> Moreover, the organization’s national president, according to the latest available documents from the Internal Revenue Service (“IRS”), earned \$335,000 in 2008.<sup>71</sup> However, even those impressive salaries were eclipsed by that of William Mitchell, President of the L.A. BBB and initiator of the controversial grading system, who, according to similar IRS documents, made over \$400,000 in

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Schone, *supra* note 63.

<sup>69</sup> *Id.*

<sup>70</sup> Bernstein, *Top Executive Earnings*, *supra* note 60.

<sup>71</sup> *Id.*

2008.<sup>72</sup> In reference to the disparity in compensation between Mitchell and other BBB executives, Trent Stamp – the former head of the watchdog organization Charity Navigator – said, “I can’t remember any case where somebody running a local chapter is earning *more than the person who is running the national organization.*”<sup>73</sup>

Executive salaries made up a sizeable portion of BBB chapter budgets, which are supported by members’ dues.<sup>74</sup> According to tax documents, compensation accounted for \$5 million of the L.A. BBB’s \$7 million budget in 2008, and the national office spent \$10 million of its \$16 million budget on employees.<sup>75</sup> The fact that Mitchell was paid vastly more than heads of other chapters raised a red flag to the president of the American Institute of Philanthropy, Daniel Borochoff.<sup>76</sup> One of his probing questions asked: “Why is the L.A. person paid so much more than the other ones? Is he getting paid based on what kind of sales he can bring in?”<sup>77</sup> Questions like these could very well lead a consumer to conclude that business ratings were not the result of an objective evaluation of a company, but only a reflection of the BBB’s unscrupulous attempt to make more money and to reward those businesses who paid up. This is exactly the type of consumer mistrust and misinformation that the BBB’s entire system is intended to eliminate.

### *IX. Connecticut’s Attorney General and Others React to Scandal*

In an official demand letter sent to the national headquarters of the BBB on November 10, 2010, the Attorney General of Connecticut, Richard Blumenthal, called for the BBB to stop using the letter-grade ratings system, which he said was “potentially harmful and misleading” to consumers.<sup>78</sup> Blumenthal’s demand letter further stated: “I am deeply concerned that certain BBB practices threaten its reputation and effectiveness as a reliable resource for consumers.”<sup>79</sup> When later interviewed as part of the ABC News investigation, Blumenthal

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.* (*emphasis added*).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Rhee & Ross, *supra* note 56.

<sup>79</sup> *Id.*

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commented that, “Right now, this rating system is really unworthy of consumer trust or confidence.”<sup>80</sup>

Among the first to raise concerns about the grading system was New York Congressman Anthony Weiner.<sup>81</sup> Weiner and other credible critics said they believed the BBB has used the new grading system as part of an extensive telemarketing campaign to increase membership and revenue.<sup>82</sup> One of the BBB’s critics, Scott Hauge, who heads the trade group Small Business California, intimated that problems with the BBB were nothing new and that the BBB’s policies had long been unfair to small businesses and misleading to consumers.<sup>83</sup> Hauge’s strong critique of the BBB included a vitriolic statement: “It’s almost like they’re shakedown artists that pressured businesses to pay up or risk poor ratings.”<sup>84</sup> Another critic of the BBB and a spokesperson for the advocacy group Consumer Action, Joe Ridout, made it clear that he thought the BBB would have to change its practices if it wanted to keep the public’s trust.<sup>85</sup> He pointedly stated that “Certainly it undermines the BBB’s mission to inform and protect consumers if they allow companies to buy their way into a good reputation.”<sup>86</sup> Ridout further stated that “The grading system is corrupted by how much money has changed hands.”<sup>87</sup> As a result of this very public assault on the BBB’s grading system by trusted public officials and consumer advocates, the BBB is at risk of further losing consumer trust.

*X. The Better Business Bureau Responds to the Intense Criticism and Promises to Overhaul the Controversial Rating System*

Just days after the ABC News report aired, Steve Cox, the CEO and President of the CBBB, apologized to consumers and his members for the lapses documented by the investigation and announced major reforms of the BBB grading system.<sup>88</sup> Cox also

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Bernstein, *BBB Change*, *supra* note 51.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> Joseph Rhee & Mark Schone, *Better Business Bureau: ABC News Investigations of the Year*, ABC NEWS, <http://abcnews.go.com/Blotter/2010-year-impact-abc-news-investigations/story?id=12467469> (last visited Feb. 2, 2011).

noted that the executive committee of the CBBB held a special meeting to discuss concerns recently raised about the BBB rating system, accreditation process, and sales practices.<sup>89</sup> He further stated that “While we do not agree with all that’s been said, we acknowledge that public trust in the BBB and its business reviews can be adversely affected by any business practice that gives even the appearance of being unfair.”<sup>90</sup>

During this impromptu meeting, the executive committee voted unanimously to unveil a plan to take the following specific actions concerning the scandal.<sup>91</sup> To begin with, they decided that the letter-grade ratings system would no longer give additional points to accredited businesses because they paid for accredited status.<sup>92</sup> In addition, the BBB insists that it will conduct a self-review of its accrediting process and make appropriate changes to the entire system.<sup>93</sup> Furthermore, the BBB assured consumers that an “independent third party” would assist them in their business review process and that it would immediately make available on its website a streamlined process for receiving and investigating complaints on BBB sales practices.<sup>94</sup>

In addition to questioning the apparent unfairness of the BBB’s practices, Cox further stated that while the BBB believed that businesses that had been approved for accreditation and committed to abide by those standards did warrant additional points in the rating system, he acknowledged that others viewed this as creating an appearance of unfairness and impropriety.<sup>95</sup> Cox wanted the public to know that “[the BBB was] taking these steps to better serve consumers and small businesses and eliminate any attempts to question BBB’s fairness,” and “any attempt to question the integrity of the entire BBB organization is completely without merit.”<sup>96</sup>

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<sup>89</sup> *A Message from the President of the CBBB*, U.S. BETTER BUSINESS BUREAU, <https://www.bbb.org/bbbinformationcenter/?p=1> [hereinafter *Message from the President*] (last visited Feb. 18, 2011).

<sup>90</sup> *Id.*

<sup>91</sup> *See BBB Takes Action*, *supra* note 15.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

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*XI. The CEO of the L.A. Area Better Business Bureau Resigns  
Amid the Scandal*

In its apology to consumers and its members, the BBB also announced that it would launch an “immediate investigation” of the L.A. BBB.<sup>97</sup> As discussed throughout this article, the controversial grading system at the center of the scandal was devised and first used by the CEO of the L.A. BBB, William Mitchell.<sup>98</sup> Under the new system, the L.A. BBB has greatly expanded and is by far the largest chapter in the U.S., and it brings in the highest membership fee revenue.<sup>99</sup> According to its 2009 tax filing, the L.A. BBB collected over \$6.2 million in accreditation fees in 2008 and paid Mitchell an annual salary of \$409,490.<sup>100</sup> Further, the 45 percent commission for selling first year memberships incentivized overzealous behavior in its more than 30 sales representatives – overzealousness that further contributed to Mitchell’s excessive compensation.<sup>101</sup>

After the scandal broke, Mitchell’s compensation quickly made him a lightning rod for criticism.<sup>102</sup> He recently announced his resignation in the wake of the rating system scandal, which raised questions about his high pay in relation to that system and resulted in an ongoing probe of his chapter by the BBB’s national headquarters.<sup>103</sup> The BBB stated that Mitchell’s decision to resign had nothing to do with the controversy over the “Pay for Play” scandal.<sup>104</sup>

*XII. Conclusion*

When you navigate to the BBB’s website, the first thing you notice – in large print, nonetheless – is the statement of one of their bedrock principles: “Start with Trust.” At the very least, this scandal has led some consumers and business owners to

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<sup>97</sup> Rhee & Schone, *supra* note 88.

<sup>98</sup> *Id.*

<sup>99</sup> Joseph Rhee, *Better Business Bureau to Investigate its own Los Angeles Chapter*, ABC NEWS (Nov. 22, 2010), <http://abcnews.go.com/Blotter/business-bureau-investigate-los-angeles-chapter/story?id=12211406>.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> Bernstein, *Head Resigns*, *supra* note 1.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

question whether or not they can actually “trust” the BBB any longer. The Attorney General of Connecticut applauded the fact that the BBB took the significant step of severing ratings from the paying of dues.<sup>105</sup> However, he also cautioned that the rating system still had some shortcomings and that the BBB had the “ethical obligation to clearly and prominently inform consumers of the severe and significant limitations of its rating system.”<sup>106</sup> Although the BBB has taken steps to regain consumers’ and businesses’ trust, only time will tell if it will ever go back to what it once was.

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<sup>105</sup> Press Release, Connecticut Attorney General’s Office, Attorney General Announces BBB To Stop Awarding Ratings For Cash, Make Other Changes To Rating System (Nov. 18, 2010), *available at* <http://www.ct.gov/ag/cwp/view.asp?A=2341&Q=468892>.

<sup>106</sup> *Id.*