

## FEATURE

## FROM OUR READERS

The letter from Sidney Baumgarten, Esq., (directly below) was written in response to an article regarding the American Board of Internal Medicine (ABIM) that appeared in the Winter 2016-17 edition of *Philadelphia Medicine*. The rebuttal from Westby G. Fisher, MD, who contributed to the original article, was written at the invitation of the editorial board.

I have been a friend and counsel to Ariel Ben Mannes, the former chief of security at ABIM, for many years. I must say that with over 50 years of law practice I have never before witnessed such repeated attempts to malign a person based upon a blip in his long and successful career. It is unconscionable for Dr. Wesley Fisher to use such invective to shame the ABIM and, along the way, destroy the career of a very honest and competent person.

Ben was a member of the Washington, DC Police Department with a very fine record.

He had been under suspension, and was in the midst of a union appeal, when he was working at a club at night. When he witnessed an altercation there he was in possession of a legally licensed handgun from Virginia, but not permitted then in the District of Columbia. His arrest and conviction was solely for illegal possession of the weapon – one felony, not two, as Dr. Fisher alleges.

Interestingly, Ben's appeal was won and he was ordered reinstated to the DC Police Department. In our view he was a *de jure* police officer at the time of the incident. Because Ben was a resident of New York for many years, he was able to obtain a Certificate of Relief from Disabilities issued by the state of New York several years

ago, which relieved him of any impediments to employment, etc., as a result of his plea and conviction.

Our laws here in New York, where Mannes' certificate was issued, prohibit discrimination against a person who has one criminal conviction. It is codified in our Human Rights Law and our Correction Law. Both are designed to prevent the stigma of one arrest from interfering with future employment.

Ben later served with distinction as a member of the Department of Homeland Security. The one incident revealed nothing that would even suggest any form of dishonesty or other reason for the ABIM to reject his services.

Mr. Mannes is being unfairly pilloried to serve Dr. Fisher's own differences with the ABIM. It is especially unseemly for the member of a highly respected profession to undertake the willful destruction of another human being for his own motives. Mr. Mannes has worked extremely hard over the last 11 years to undo the unfortunate incidents of one night, and surely does not deserve to have his family, friends and colleagues read disparaging, inaccurate things about him in the pages of your publication.

Sincerely,

Sidney Baumgarten, Esq., former deputy mayor of New York City, brigadier general, NYG, Retired

## REBUTTAL

Contrary to what Sidney Baumgarten claims, Ariel Benjamin Mannes does not have a "fine record of service with the DC police department." In 2003, Mannes admitted using his access as an officer to obtain Washington reporter Jason Cherkis's personal records and posting the information on a law enforcement website advocating reprisals.<sup>1</sup> The disciplinary board decided *unanimously* to fire Mannes for conduct unbecoming, but took more than 55 days to notify him.<sup>2</sup>

While on involuntary leave from DC Police pending investigation, Mannes began working for the TSA Railroad Division and moonlighted as a bouncer at the "Diva nightclub." Mannes assaulted a Diva nightclub patron while carrying a loaded unregistered pistol and claiming he was a police officer. Mannes was charged with aggravated assault, impersonating a police officer, and carrying an unregistered firearm.<sup>3</sup>

Per DC Court records, Mannes pleaded guilty on December 2005 to two charges from the nightclub incident: (a) impersonating a police officer and (b) carrying an unregistered firearm, and was sentenced to pay fines for each conviction and to probation. He lost his weapon and TSA employment because of this incident.<sup>4</sup>

Police Chief Cathy Lanier was forced to rehire Mannes in November 2008<sup>3</sup> due solely to the notification issue, but then

suspended him. The Department moved again to fire him because of his weapons charge.<sup>4</sup>

Mannes lost his appeal of his two convictions on 10/21/2008, the same year he began working as Director of Test Security for the ABIM.<sup>5</sup>

While at the ABIM, Mannes' declaration before a federal judge was instrumental for the ABIM to obtain a temporary retraining and seizure order in ABIM's investigation of the Arora Board Review (ABR) course on December 2, 2009.<sup>6</sup> Mannes, ABIM lawyers, and U.S. Marshals seized materials from Dr. Arora's home days later.<sup>7</sup> Using emails from Arora's computers, ABIM retaliated against 139 physicians and sued others and then issued a press release June 9, 2010 before due process could occur.

In summary, Mannes was disciplined by the DC Police for abusing his position of authority to access confidential information to retaliate against an innocent citizen. Such conduct was not acceptable to the DC Police, and yet it appears to be acceptable to ABIM while it falsely accuses physicians of acting unethically. ABIM's double standard should be exposed as long as it continues to harm physicians.

Westby G. Fisher, MD

1 <http://www.washingtoncitypaper.com/arts/article/13032155/keeping-the-piece>

2 [http://www.washingtonpost.com/wp-dyn/content/article/2008/05/19/AR2008051902297\\_2.html?sid=ST2008052302978](http://www.washingtonpost.com/wp-dyn/content/article/2008/05/19/AR2008051902297_2.html?sid=ST2008052302978)

3 Klein, Allison "DC Trying to Again Hire 17 Rehired Police Officers." *Washington Post* 24 May 2008. <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/23/AR2008052301479.html> accessed 11 Feb 2017.

4 Klein, Allison. "17 Officers Fired for Misconduct Reinstated." *Washington Post* 20 May 2008. <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/19/AR2008051902297.html> Accessed 11 Feb 2017.

5 "ABIM Warns About 'Phony' Boards." *Amednews.com*. Posted Dec 8, 2008. <http://www.amednews.com/2008/12/08/pr1208.htm> Accessed 12 Feb 2017.

6 *Pacer.gov*. Document 4. Case 2:09-cv-05707-JCJ Filed 12/2/09. Available at [http://www.medtees.com/blog/ABIMTROwMannes\\_Redacted.pdf](http://www.medtees.com/blog/ABIMTROwMannes_Redacted.pdf) Accessed 11 Feb 2017.

7 *Pacer.gov*. Document 11. Case 2:09-cv-05707-JCJ Filed 1/7/2010. Available at [http://www.medtees.com/blog/ABIM-USMarshals-285\\_Redacted.pdf](http://www.medtees.com/blog/ABIM-USMarshals-285_Redacted.pdf) Accessed 11 Feb 2017.