

# HEI: An Unethical Investment

**M**any universities have adopted ethical investment policies for their endowments, and also created advisory committees whose role is to advise trustees on ethical and social issues surrounding investments. In 1972 Yale University was the first to adopt such guidelines, drawing from John Simons' *The Ethical Investor: Universities and Corporate Responsibility*. In this book, universities are encouraged to honor a "moral minimum" and avoid investing in corporations causing social injury or harm to others.<sup>1</sup>

Provided below are several examples of why HEI's business practices keep workers living in poverty. Furthermore, HEI takes extreme measures to maximize profits after acquiring a hotel. This includes cutting back on staffing levels, reducing hours of some workers, laying off others, and even eliminating entire job functions. Workers report shortages in the basic materials needed to do their jobs—including struggling to find enough towels and linens, and encountering shortages of basic cleaning supplies like sponges and vacuum cleaners. HEI has allegedly intimidated workers who have spoken out about these issues and has created the impression that it has surveilled workers, along with settling charges filed with the National Labor Relations Board.

## HEI: Found Guilty of Retaliation and Willfully Breaking the Law

On March 30, 2011, eight jurors in Massachusetts ruled unanimously that former Senior Vice President Larry Trainor was retaliated against by HEI for filing a complaint with the Massachusetts Commission Against Discrimination. The jury also ruled that when HEI committed retaliation, HEI knew or had reason to know that their actions violated the law. Trainor was awarded \$2.25M in damages by the jury. But on April 15, 2011, the judge overseeing his case ruled to double the damages to \$4.5M, noting that a jury finding of an act of knowing retaliation for complaining about age discrimination by an employer entitles the employee to multiple damages.

The verdict in this case is another example of HEI's disregard for the law. Over the past two years, HEI has settled a myriad of unfair labor practice complaints issued by the National Labor Relations Board's General Counsel

over allegations such as intimidation, retaliation, and creating the impression of surveillance. In California, workers at two HEI hotels have filed complaints with the state Labor Commissioner over the company's alleged failure to grant 10-minute breaks during shifts or pay compensation mandated by state law for missed breaks. Those complaints are scheduled to go to hearing in July 2011.

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## State Scrutiny of Alleged Tax Avoidance at HEI hotels

On April 20, 2011, five housekeepers at the HEI-owned Hilton Long Beach were fired after three of them complained to management about unfair working conditions at the hotel. Some of the fired housekeepers had also recently participated in an on-going state investigation into the legality of their employment arrangement – they theoretically worked for a temporary agency, but had no payroll taxes deducted from their checks.

The Hilton Long Beach hired and supervised all the fired housekeepers directly, but the women were paid "under-the-table" — via a check without the deductions required by law from a rarely seen individual who, in theory, runs a temporary employment agency. Hotel managers distributed the workers' paychecks.

California's Employment Development Department and the Department of Labor Standards Enforcement are investigating tax and employment practices at the both Hilton Long Beach and nearby Embassy Suites Irvine, also a HEI-managed hotel. All of the fired women worked alongside permanent housekeepers, wore the same uniforms, and took direction from the same manager, but received no job related benefits, vacation days or holidays.

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## HEI's Anti-Worker Campaigns

In a Letter to the Editor published in *The Daily Princetonian* in March 2009, HEI's Director of Communications Jess Pettit wrote, "Our primary concern is to support our employee community, and while there are a few vocal employees who support unionization, we will work to protect the rights of all employees on this matter."<sup>2</sup> Pettit failed to mention in his letter that HEI spent nearly \$170,000 in 2008 and 2009 paying an anti-union consultant, "Persuasive Communications" whose specialty is "helping employers express their position on unions and union representation persuasively and openly."<sup>3</sup> But even still, HEI has settled a myriad of unfair labor practice charges with the National Labor Relations Board's General Counsel over allegations such as intimidation and creating the impression of surveillance.

At HEI's Le Meridien San Francisco, the company was investigated by the NLRB's General Counsel on charges of illegal intimidation and surveillance in 2009. HEI settled these charges by agreeing not to engage in such illegal behavior, and agreed to post a notice for 60 days to its employees, reminding them of their rights under the NLRA.

Included in the posting was the company's assertion that "we will not, in the course of investigating complaints of harassment, create the impression that your appeals to employees to support the Union may result in your termination for violation of our Policy Against Workplace Harassment." The company also posted — "we will not admonish you for speaking in favor of card check at voluntary town hall meetings." A worker from Le Meridien stated, "The hotel managers had a meeting with the workers. They were talking about our organizing. When they were done talking, I stood up to speak. I had never done this before and was really nervous. I said that the hotel should agree to a fair process that the workers wanted. Then, hotel general manager Bob LaCasse interrupted me. He was really mad. He pointed at me and walked toward me. He was yelling. He made fun of the workers asking for a fair process. That made me really nervous."

In March 2010, the NLRB Region 5 issued a complaint against the Sheraton Crystal City for allegedly violating two sections of the National Labor Relations Act protecting workers from coercive statements, threats, the impression of surveillance, discharge, discipline and one-sided assignments.<sup>4</sup>

In June 2010, HEI settled the case with the General Counsel of National Labor Relations Board by reinstating fired union leader Ferdi Lazo and paying 80% of his back wages for the 14 months he was fired, removing a written discipline given to a front desk worker active in the union, as well as remedying the wide array of unfair labor practice allegations mentioned above.

***"California's Employment Development Department and the Department of Labor Standards Enforcement are investigating tax and employment practices at the both Hilton Long Beach and nearby Embassy Suites Irvine, also a HEI-managed hotel."***

At HEI-operated Embassy Suites Irvine, a number of unfair labor practice charges were filed against the company. The charges allege HEI has disciplined employees for participated in protected activity, prohibited employees from leafleting in front of the hotel, and engaging in unlawful surveillance.<sup>5</sup>

## Wages and Benefits: Keeping Workers in Poverty

In August 2010, about 50% of workers at HEI's Embassy Suites Irvine filed complaints with the California Department of Industrial Relations, alleging the company's failure to grant 10-minute breaks during shifts or pay compensation mandated by state law for missed breaks. Based on the complaint allegations and back wages mandated by California law, the union estimates workers are owed about \$120,000 in back pay. Workers took the unusual step of walking off the job in protest of HEI's practice. Two months later, workers at HEI's Hilton Long Beach filed similar complaints against the company for the same alleged violation.

The average hourly wage for a housekeeper is \$9.74 per hour at the Embassy Suites Irvine, and \$9.75 at the Hilton Long Beach. Housekeepers at the Sheraton Crystal City earn as little as \$10.24 an hour. This is well below the US 2010 federal poverty line for a family of four.<sup>6</sup> Yet managers are paid handsomely. Documents filed in an age discrimination lawsuit filed against HEI revealed that the general manager of Le Meridien San Francisco was promised \$235,000 per year beginning in November

2008, and was eligible for a bonus incentive with a target of 25% of his salary.<sup>7</sup> When HEI’s Brian Mayer was offered a position as Senior Vice President in 2008, his offered base salary was \$280,000 per year, with a target bonus of 30% of his salary (up to 50%) and ability to invest in HEI funds.<sup>8</sup>

**Hilton Long Beach**

According to a report produced by the Los Angeles Alliance for a New Economy, workers surveyed at HEI’s Hilton Long Beach earned below the living wage that the City of Los Angeles requires city contractors to pay.

The median hourly wage for a worker surveyed by LAANE at the Hilton Long Beach was a mere \$9.75 an hour, and the median gross annual earnings were \$19,240 per year. This was 13% below the Los Angeles City living wage and 62% below the self-sufficiency wage for a family of four. The self-sufficiency standard to meet the basic needs of living in Los Angeles County in 2008 was \$51,371 per year for a family of one adult, one preschooler and one school-age child.<sup>9</sup>

Due to the high cost of insurance relative to wages, only 55% of workers at the hotel surveyed by LAANE had health insurance through their employer. The average cost of health care was roughly \$146 per month, with family coverage costing as high as \$280 per month, or

\$3,360 annually. As a result, 41% of surveyed Hilton Long Beach workers used public assistance in order to meet their needs, with half of those saying they utilized more than one program. Even still, over 20% of surveyed Hilton workers held a second job, making the average work week for these employees 65 hours.

**Sheraton Crystal City**

The Sheraton Crystal City is a 217 room hotel located in Arlington, Virginia. Located near the Pentagon and Reagan International Airport, the hotel has enjoyed above-average occupancy rates (87% in late 2009).<sup>10</sup> Even still, housekeepers are paid less than those at a Doubletree only a few blocks away.<sup>i</sup> Recent changes to their health plan have proved costly for workers. A worker with a family health insurance plan would have a Health Reimbursement Account provided by HEI of only \$800-\$1,000. After that money is used up, workers face an out of pocket deductible of \$1,100-\$2,200 before their insurance kicks in. Even after the deductible, the insurance only covers 80% of most costs, leaving workers to foot the bill for the other 20%.

**Embassy Suites Irvine**

The average housekeeper at HEI’s Embassy Suites in Irvine, California, makes \$9.74 per hour, or \$20,259 annually assuming each worker is scheduled for forty hours per

	<b>Doubletree Crystal City</b>	<b>HEI Sheraton</b>
<b>Wages</b>	<b>\$11.70</b> per hour for housekeepers	<b>\$10.24</b> for a housekeeper
<b>Family Medical Insurance</b>	<b>\$80</b> per month	<b>\$270.68</b> per month
<b>Other Health Benefits</b>	<b>Free</b> Disability, Life, Family Optical, and Family Dental	<b>\$45.86-\$113.86</b> per month for Family Optical and Family Dental; workers are <b>charged additionally</b> based on age for Disability and Life Insurance
<b>Pension</b>	<b>Yes</b>	<b>No</b>
<b>Banquet Gratuity</b>	<b>Paid to workers:</b> Banquet servers earn a 14% gratuity for all events.	<b>Paid to HEI:</b> the company charges guests a 22% service fee for banquets but does not pay this service fee to the banquet servers.

week, which many are not.<sup>11</sup> Marciano Hernandez, a housekeeper who started working at the hotel in 1995, makes only \$8.65 per hour.

Yet the cost of health insurance is considerable relative to average wages. Workers pay \$111.28 per month for single coverage, and \$389.50 for family coverage. For a worker earning \$8.65 an hour, family coverage is more than 25% of his or her annual salary, assuming that he or she is working forty hours per week.

In November 2010, HEI sold the Embassy Suites for an undisclosed price to Cornerstone Real Estate Advisors, which purchased the property through its Cornerstone Hotel Income & Equity Fund II.<sup>12</sup> HEI continues to manage the hotel.<sup>13</sup>

## Le Meridien San Francisco

Compared to most other cities, the San Francisco hotel industry has a high level of unionization. Of 38 full service hotels in San Francisco, 31 are union<sup>ii</sup> — setting the standard for wages and benefits in that city. However, higher wages do not offset the increasingly expensive health benefits and retirement benefits so vital for workers in the 5th most expensive city in the United States.<sup>14</sup> Le Meridien and the Omni San Francisco Hotel are located blocks from one another, have nearly the same number of guest rooms, and a similar customer base<sup>iii</sup>. For workers, however, the standards at these hotels are very different. Currently at

the Le Meridien, about 180 employees staff the 360 room hotel in classifications elsewhere represented by the union. When HEI acquired the hotel in 2006 there were about 225 such employees<sup>iv</sup>. At the Omni in 2010, 326 employees staff the 362 room hotel.<sup>v</sup>

For housekeepers at the Le Meridien, wages are roughly \$20 per hour, while housekeepers at the Omni make \$18.09 per hour. But, at Le Meridien, employee premiums for family healthcare are roughly \$55.43 per month for an HMO plan plus \$33.21 for dental.<sup>vi</sup>

At the Omni per the collective bargaining agreement with UNITE HERE Local 2, the hotel pays all but \$10 per month for full family healthcare HMO. Dental and optical care insurance are also included in this health coverage, while doctor visit copays cost only \$5.<sup>vii</sup>

At Le Meridien, workers are able to open a 401(K) plan for retirement. But after working at the Omni for five years, workers there are eligible to participate in a defined benefit plan if they work 15 hours during at least three weeks per month. With this plan, workers receive \$35 per month for each year of service.

In December 2010, HEI sold Le Meridien to real estate investment trust Chesapeake Lodging Trust for \$143 million. HEI continues to manage the hotel.<sup>15</sup>

*For more information, contact HEI Workers Rising: 415.626.7521 or visit us online at [www.heiworkersrising.org](http://www.heiworkersrising.org)*

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### NOTES:

i Agreement Between Hilton Hotels Corporation and UNITE HERE, Mid-Atlantic Regional Joint Board/IUOE Local 99 For the Crystal City Doubletree

ii Union: Clift Hotel, Courtyard by Marriott Downtown (2nd St), Fairmont San Francisco, Four Seasons San Francisco, Grand Hyatt, Hilton Financial District - San Francisco, Hilton Fisherman's Wharf, Hilton San Francisco, Holiday Inn Civic Center, Holiday Inn Express (FW), Holiday Inn Fisherman's Wharf, Holiday Inn Golden Gateway, Hotel Kabuki, Hotel Vitale, Huntington Hotel & Nob Hill Spa, Hyatt Regency San Francisco, InterContinental Moscone, Mark Hopkins InterContinental Marriott Fisherman's Wharf, Marriott Marquis, Marriott Union Square, Omni San Francisco Hotel, Palace Hotel, Parc 55 Hotel, Renaissance Stanford Court, Sheraton at Fisherman's Wharf, Sir Francis Drake, St. Regis Hotel & Residences San Francisco, W San Francisco, Westin Market Street, Westin St. Francis Non-Union: Campton Place, Hotel Nikko San Francisco, Hyatt Fisherman's Wharf, JW Marriott, Le Meridien San Francisco, Mandarin Oriental San Francisco, Ritz Carlton San Francisco

iii Based on UNITE HERE Local 2 analysis of each hotel's customers: the two properties share a disproportionate reliance on individual business travel, with relatively little group customers and tourists (by comparison to other Class A San Francisco hotels).

iv Per UNITE HERE Local 2 worker surveys/lists from 2005-06.

v Per UNITE HERE Local 2 membership list from 2010.

vi Le Meridien SF Health Plan

vii San Francisco Culinary & Bartenders Welfare Fund Summary Plan Description.

1 Simons, John, "The Ethical Investor: Universities and Corporate Responsibility" Yale University Press (1972)

2 <http://www.dailyprincetonian.com/2009/03/05/22991/>

3 2008 and 2009 LM-10 Forms for Merritt Hospitality.

4 NLRB Region 5, Cases 5-CA-35105, 5-CA-35162, 5-CA-35468

5 8(a)(1) and (3) charge as filed

6 August 2010 HHS Poverty Guidelines. \$22,050 for a family of four.

7 Trainor v. HEI Hospitality Management, et. al., Case No. 09-10349, Docket No. 29, Exh. T (U.S. Dist. Ct., D. Mass)

8 Trainor v. HEI Hospitality Management, Exhibit S.

9 <http://www.insightcced.org/communities/cfess/ca-sss/cfes-county-los-angeles.html>

10 PRISA II Advisory Council annual report.

11 Wage and hour complaint spreadsheet (attached).

12 Memorandum of Assumption Agreement, Orange County Official Records, October 26, 2010.

13 "HEI Hotels Sells Embassy Suites Irvine" Orange County Register, OC Metro, November 3, 2010.

14 Lauren Sherman. "America's Most Expensive Cities." Forbes, 24 July 2008. Web. July 16, 2010.

15 "Le Meridien Hotel sells for \$143 Million" San Francisco Business Times, December 13, 2010.