Is Kenneth Cole Shifting Blame for the Harvey Weinstein Charity Controversy?

At stake in amfAR's civil war is the nonprofit's quest to find a cure for HIV.

January 21, 2018 By Benjamin Ryan

They bent the rules for Harvey Weinstein, and now they're paying the price.

AmfAR, The Foundation for AIDS Research, has long relied on the now-disgraced Hollywood mogul to supply celebrities, cachet and cash for its fundraising efforts. And now as the nonprofit faces a reckoning born from this dependence, the stakes are particularly high for its famous board chairman: the fashion magnate Kenneth Cole, who has carefully built his eponymous brand around his own image as a philanthropist.

AmfAR's current existential crisis stems from the sale of a trio of auction lots that Weinstein curated for the HIV organization's 2015 Cannes Film Festival gala. The enduring firestorm surrounding the film producer's alleged sexual misconduct has only put these auction transactions, and amfAR itself, under an even more intense microscope.

The convoluted series of financial arrangements that channeled the proceeds from the auction lots in question—amfAR carried out these transactions at Weinstein's insistence—have raised deep concerns among a faction of the nonprofit's trustees and have given rise to a board-wide civil war. This internal battle has for the past four months played out in the public eye, with many HIV activists joining a call for Cole's ouster. And as is invariably the case in disputes among the rich and powerful, a flock of high-powered lawyers has descended upon the scene.

In this extensive investigative report, much of which is based on critical documents that have never been reflected in press reports and that shed new light on pressing questions, POZ takes an in-depth look at the sprawling and often astonishing controversy that has engulfed amfAR.

The most concerning question at hand is how the organization's woes may impact the search for an HIV cure.

Understanding the auction controversy

Following an agreement between Weinstein and amfAR, the nearly $1 million in proceeds from the

auction lots he arranged for the 2015 Cannes gala were split unevenly between amfAR and the American Repertory Theater (ART) in Cambridge, Massachusetts. The Harvard University–affiliated ART is a nonprofit—like amfAR, it has 501(c)(3) status—that in 2014 staged a production of the Weinstein-coproduced musical *Finding Neverland*, which later ran for 16 months on Broadway.

What by all accounts amfAR did not know at the time was that, as a key source told POZ, the contract between ART and Weinstein's production company stipulated that if by June 1, 2015, he raised in third-party donations to ART up to the amount of his own $2.05 million contribution to the musical, ART would return to him the same sum he drummed up from other sources. In the end, Weinstein recouped about $1.9 million from ART.

On September 23, 2017, Megan Twohey of The New York Times broke the story about Weinstein's auction arrangements with amfAR. She, along with her colleague Jodi Kantor, then broke the story of his alleged sexual misconduct on October 5.Jaguar PS/Shutterstock.com

A faction of board members, concerned at the very least about the ethics of the transactions, and upset over their fellow trustees' response to them, blew the whistle, and in April 2017, an attorney representing this group requested an inquiry from the New York State Attorney General's Charities Bureau. That office's chief, James G. Sheehan, wrote in a September letter to a lawyer representing amfAR that the bureau's subsequent review had raised several concerns including whether the "transaction resulted in benefits to private interests."

The charities bureau, which continues to monitor amfAR, recommended to the board an array of reforms. On top of that, the U.S. Attorney for the Southern District of New York has launched an investigation into the auction transactions. Since receiving a subpoena in October, amfAR has

apparently remained only a witness to this investigation.

Harvey promised Michael [Bennett] on his deathbed to help cure this terrible disease.

One of Weinstein's press representatives, Holly K. Baird of Sitrick And Company, released the following statement to POZ: "Harvey's devotion to amfAR began with his cherished friendship with [legendary choreographer and creator of *A Chorus Line*] Michael Bennett, who died of AIDS. Harvey promised Michael on his deathbed to help cure this terrible disease. AmfAR is a charity that Harvey has been devoted to for more than 20 years. To suggest that he would use or did use amfAR for an illegal purpose is not true, and under the circumstances is offensive."

Legendary choreographer Michael Bennett, who died of AIDS-related complications in 1987 at the age of 44Youtube

Similarly, in a statement to The Boston Globe in October, Orin Snyder, a partner at top law firm Gibson, Dunn & Crutcher who led the second of two amfAR-board-commissioned internal investigations into the auction matter, said: "Any suggestion that the transaction was unlawful in any way is incorrect and offensive."

The fallout from these financial transactions threatens to compromise the New York City–based amfAR's ambitious $100 million, five-year Countdown to a Cure campaign to fund HIV cure research.

AmfAR stands at a precipice, not just because of its largesse but also because until now the grant-making foundation has enjoyed such a sterling reputation. (Charity Navigator gave amfAR a "low concern" advisory in recent weeks but still awards the foundation four stars.) Since its origins, the nonprofit has been held in high regard among gay men in particular—for being out front in the fight against AIDS during the 1980s crisis years and for boasting such glamorous and feisty cofounders: the late Hollywood legend Elizabeth Taylor and the scientist-socialite Mathilde Krim, PhD, who died on January 15 at age 91.

The saga of how such a charity got swept up in the Weinstein storm features a colorful cast of wealthy and well-connected characters, many of them linked to other major current events, including, in one attorney's case, at least a tangential tie to a Russian lawyer who was behind that nation's efforts to sway the 2016 presidential election.

As for Cole, whose wife, Maria Cuomo Cole, is New York State Governor Andrew Cuomo's sister, his role in the auction transactions as well as what some of his adversaries have endeavored to characterize as a subsequent cover-up, has led to a compounding series of blows, including the dissident trustees' challenge of his leadership, a worrisome drop in fundraising at amfAR since news of the auction transactions broke publicly in September, and a November 13 letter calling for his resignation from the board signed by more than 60 HIV activists and organizations.

Now POZ has learned that an attorney representing Cole apparently has sought to deflect responsibility for the auction transactions from Cole and instead to more centrally attribute them to amfAR's highly regarded CEO, Kevin Frost—who, as a newly surfaced record indicates, expressed his contempt for Weinstein years ago.

The Weinstein gravy train: a blessing and a curse

During its three-decade history, amfAR has invested more than $450 million in its programs, a figure that has risen at a steady clip in recent years as the foundation has aggressively pushed HIV cure research as its primary focus.

Revenue increased from $26 million in 2010 to $30 million in 2013; shot up to $49 million in 2014, the year the Countdown to a Cure research initiative was announced; and cracked $50 million in 2016. AmfAR has also become increasingly efficient: Fundraising and management costs as a proportion of overall expenses declined from 24.8 percent to 20.4 percent between 2013 and 2016.

These figures are the fruits of a fundraising model amfAR has perfected over its history, one that relies on famous supporters such as Sharon Stone, Julia Roberts, Lady Gaga and Leonardo

DiCaprio to lend the charity an irresistible A-list sheen. The crown jewel of amfAR's development efforts has long been the Cannes gala, a must-attend celebrity and sociaite soiree that in recent years has grossed between $8 million and $25 million in a single night.

Long-time amfAR supporter Sharon StoneFeatureflash Photo Agency/Shutterstock.com

Weinstein, as sources have told POZ, was a double-edged sword for amfAR's race for big money. On one side, he was instrumental in orchestrating access to the rich and famous. According to Baird, Weinstein "has raised over $50 million personally in donations and in his own contributions" to the foundation (an amount that has inflated since Baird's colleague claimed to The New York Times in November that it was between $30 million and $40 million). Others who are close to the matter consider that figure to be an overestimate, perhaps to the point of wild exaggeration.

Many in Hollywood refused to attend amfAR's fundraisers if Weinstein was going to be there.

On the flip side, numerous central sources critical of Cole argued to POZ that, even before the auction-related controversy became public, Weinstein's participation in amfAR's fundraising efforts actually yielded a net fundraising *loss*. These sources reported that, stretching back quite a few years, certain staffers at amfAR have been aware that many in Hollywood refused to attend

amfAR's fundraisers if Weinstein was going to be there. It is, of course, impossible to know how much money these individuals might have contributed had they attended.

The original agreement for the 2015 Weinstein-curated auction lots—which included tickets to Academy Awards parties for one bidder and for two others a session each with photographer Mario Testino—was an even split between amfAR and the American Repertory Theater up to $1.2 million; amfAR would keep all funds raised in excess of that amount. A last-minute insert into the auction catalogue alerted bidders to the split for the Testino photo shoots, but there was no such alert regarding the Oscars package. AmfAR has attributed this lack of notice to a clerical error. (Testino has recently been the object of numerous sexual misconduct accusations of his own.)

When the lots went for $909,669, Weinstein renegotiated so that ART would still receive $600,000. Then he mysteriously demanded that amfAR send ART the money no later than June 1, 2015. After amfAR staff protested that they hadn't yet been paid for all the lots, Weinstein loaned amfAR $600,000; amfAR then wired that sum to ART by the deadline.

Weinstein was taking credit for this cumulative $600,000 donation twice, both as reconciliation to amfAR and as a public show of his generosity.

Soon after, once all the bidders had paid up, Weinstein pushed amfAR for his money back, which meant asking the charity to cross its policy of not recognizing as income any payment for auction items until the lots had been fulfilled. On September 1, 2015, amfAR nevertheless reimbursed Weinstein the $600,000 under a contract that stipulated he would repay any related unfulfilled auction lots.

In late summer 2017, aware that The New York Times was about to break the story about the auction transactions, Weinstein repaid the $600,000 in an effort, as he would tell the Times, to smooth things over with amfAR. However, as POZ has learned, he counted that figure toward the $1 million pledge to amfAR that he had announced at the May 2017 Cannes gala. (He paid amfAR $250,000 following that year's auction and $350,000 in late summer.) So in essence, contrary to previous press reports, he was taking credit for this cumulative $600,000 donation twice, both as reconciliation to amfAR and as a public show of his generosity.

Cole must go: HIV activists react

The prominent activists seeking Cole's resignation as well as those of any "board members who supported this inappropriate transaction," include Olympian Greg Louganis, GMHC and ACT UP cofounder Larry Kramer, The AIDS Memorial Quilt founder Cleve Jones, executive director of The Sero Project and POZ founder Sean Strub, ACT UP veteran and Treatment Action Group cofounder

Peter Staley and Tom Viola, executive director of Broadway Cares/Equity Fights AIDS (BC/EFA).

“[Cole] and this board have saddened this great organization and lost the support of so many of us who for so long have wished it well,” wrote a circumspect Kramer in an email to POZ.

Kramer explained that he signed on to the letter calling for the resignations only reluctantly, concerned with causing harm to an organization he holds dear. But he concluded that Cole was not “intelligently” handling the controversy and was “only exacerbating it.”

“I loved and admired her,” Larry Kramer said of amfAR cofounder Mathilde Krim, PhD, in an email he sent to POZ just weeks before she died. “This would all be breaking her heart.”Matthew McDermott

While lamenting amfAR’s “public relations disaster,” Jones expressed a common refrain of praise for Cole: “[He] certainly did a lot of good work and raised enormous amounts of money.”

The fallout from the transactions, Jones added, “might also be a cautionary sign for people about what happens to nonprofits when you have a self-perpetuating board that holds power for indefinite periods of time.”

The fact that AmfAR board members serve without term limits is a source of much controversy in the wake of the Weinstein auction transactions.

Multiple sources close to the matter have claimed that in recent years Cole has not been particularly engaged in raising money for the organization. They also characterized the board

chairman as a weak public speaker poorly equipped to charm benefactors at benefits. “He was infamous for not working the room,” said one former board member.

Cole had ‘ that extra special something, a charisma.’

AmfAR board member Patricia Matson, a retired senior vice president of communications for ABC, passionately defended Cole to POZ. He was instrumental, she said, in rescuing the organization from the dire financial straits it was experiencing as he assumed the chairmanship in the mid-2000s. This meant building a board well equipped to drive up fundraising and using his considerable professional reach and what she called “that extra special something, a charisma” to give amfAR its celebrity-driven “visibility and ‘buzz.’”

“He just kept at it,” Matson added, “and step by step over the past 13 years, amfAR has become maybe the only nonprofit that could be considered a brand.”

A number of board members who support Cole’s tenure and who preferred to remain anonymous argued that the designer’s resignation from his amfAR post would in fact hurt fundraising.

I haven’t met a donor yet who isn’t appalled by the mistakes the board has made under Cole’s leadership.

Activist and former board member Peter Staley reacted to this claim by stating, “I haven’t met a donor yet who isn’t appalled by the mistakes the board has made under Cole’s leadership in response to this scandal. His continued presence is hurting fundraising, not preserving it.”

Regarding Cole’s personal contributions, multiple sources close to the matter told POZ that in February 2015, Cole informed the board that he intended to donate $2 million to the Countdown to a Cure campaign; but he has not yet signed an official pledge form or donated cash toward that amount.

One board member who preferred to remain anonymous stressed that Cole “has donated significant personal and corporate resources” to amfAR during his chairmanship, “including

personally having raised and/or given millions of dollars."

Cole would not speak directly with POZ but sent a statement through a spokesperson: "I have proudly served on the board of amfAR for 30 years and as its chair for 13 of them. We have had an impact in many of the most important breakthroughs in the fight against HIV and AIDS, having raised hundreds of millions of dollars for this life-saving work. I have no intention of abandoning that mission because of a transaction that was determined to be legal and ethical and was engaged in because it served amfAR's mission."

To Cole's final point, Weinstein's representative Holly Baird reiterated to POZ a statement given previously to media outlets. These remarks, she said, were crafted with Weinstein's attorney, Jason R. Lilien, a former chief of the state attorney general's charity bureau: "There was no evidence that Mr. Weinstein engaged in any violation of state or federal charity law or that any charity, bidder or donor was harmed in connection with the amfAR event."

Michel Sidibé, right, executive director of UNAIDS, announces that Kenneth Cole, left, has been appointed the International Goodwill Ambassador for UNAIDS, June 2016.UN Photo/Mark Garten

Cole and Weinstein's mutual assertion about the legality of the transactions is backed by the central conclusion reached by Gibson Dunn—the law firm the amfAR board hired to investigate the transactions, paying $450,000 for its services. (This represented a greater than 50 percent partial pro bono discount from Gibson Dunn's standard rate.)

Gibson did not, however, address whether the transactions were ethical.

As amfAR seeks to get its house in order—the board's main annual meeting is scheduled for February 7 at its Manhattan headquarters, during which trustees will consider reform recommendations—Cole may suffer a devastating blow if the current, arguably uphill, battle to dismiss him from his post should succeed.

Cole strikes back: Criticizing the criticism

In the course of its investigation, POZ has obtained a letter in which an attorney representing Cole has taken a remarkable new tack in furthering his client's efforts to save face.

On November 17, Michael S. Shuster, a partner at Holwell Shuster & Goldberg who specializes in representing clients involved in commercial disputes, wrote to Peter Staley to challenge the activist's public criticisms of Cole.

> Shuster's letter was an attempt 'to shift the blame for the mess to Kevin Frost.'

At the letter's core was an apparent effort to recast the story behind the auction transactions. In a subsequent public Facebook post, written on December 21, Staley stated that he believed that Shuster's letter was an attempt "to shift the blame for the mess to Kevin Frost, amfAR's CEO" and away from Cole.

This apparent pivot on the part of the Cole camp is extraordinary, considering that, during the four months since the auction story broke in The Financial Times and The New York Times, the board chairman has not made any public comments indicating Frost was centrally responsible for the transactions.

In fact, according to multiple sources, as well as records POZ has reviewed, Cole had previously expressed remorse to board members for his own role in what transpired.

One such record is an email sent on September 29, 2016, by amfAR board vice chairman and treasurer John Simons, a partner at Corporate Fuel Partners who, as head of amfAR's audit committee, was the one board member other than Cole directly involved with the transactions. "I believe that Kenneth is appropriately contrite regarding his efforts to deal with Harvey Weinstein over this matter," Simons wrote fellow board members. Cole, he continued, "attempted to work with Weinstein because he believed it was in the best interests of the Foundation."

That same week, board member Patricia Matson sent a typed letter to her colleagues in which she

sought to absolve Cole. She made evident that she perceived the chairman as instrumentally responsible for helping carry out Weinstein's wishes related to the auction proceeds.

AmfAR's cofounder, the late Mathilde Krim, PhD, a brilliant scientist and socialite who rose up in support of the HIV research cause in the early 1980s when others refused to go near it. She was a beacon of hope for those affected by AIDS.Featureflash Photo Agency/Shutterstock.com

What's at stake: Support for HIV cure research

As this year's May Cannes gala fast approaches, the loss of Weinstein as a catalyst for fundraising—amfAR cut all ties with him last October—is, according to key sources, a matter of concern for the foundation.

Fundraising is already suffering.

Multiple sources report that amfAR's overall fundraising is already suffering as a result of the auction controversy. This is a worrisome sign for the Countdown to a Cure initiative, which the foundation announced in 2014 and aims to channel $100 million into developing "the scientific foundations of a cure" by 2020.

AmfAR has raised about $45 million toward this figure thus far, $6.8 million of which, or 15 percent, is in pledges as opposed to cash.

According to a recent analysis by the HIV advocacy organization AVAC, the $5.8 million that amfAR contributed to cure research in 2016 represented 2.2 percent of the estimated $268 million spent globally by all funders for this purpose that year. This made amfAR the third highest non–National Institutes of Health (NIH) funder, behind the Bill & Melinda Gates Foundation and the California Institute of Regenerative Medicine, which contributed a respective $7.1 million and $6.8 million in 2016.

The NIH backs the lion's share of HIV cure research worldwide and ramped up its expenditures from $114 million in 2014 to $230 million in 2016.

Total global funding for HIV cure research—this bar graph represents cumulative funds from all sources—has surged in recent years, driven primarily by the NIH's increasing investment in the field, according to AVAC.AVAC

Included in this chart are all global funders who invested $1 million or more in HIV cure research during at least one year between 2014 and 2016, according to AVAC.AVAC

Even standing in the NIH's long shadow, amfAR makes a significant impact on the HIV cure field. More nimble than the federal government, the foundation is able to invest in much-needed higher-risk projects. It also helps foster future scientific leaders by backing young researchers.

Additionally, amfAR's prestige helps set HIV research priorities. And by strategically positioning grants, the charity effectively challenges other funders to follow suit; a past internal study found that amfAR dollars wind up leveraged and duplicated.

"They've been a catalyst," said David Gold, CEO of Global Health Strategies and a longtime HIV activist, who signed the letter calling for Cole to step down. "They can take a lot of credit for being out there early and setting a target and pushing for investment in cure research when a lot of people were quite dismissive about it."

“If you poll people in the field of AIDS and you mention amfAR,” said Anthony S. Fauci, MD, director of the National Institute of Allergy and Infectious Diseases (NIAID), a division of the NIH, “you get an almost universally positive response to what they do.”

Anthony S. Fauci, MD, director of the National Institute of Allergy and Infectious Diseases (NIAID), speaking at The 9th International AIDS Society Conference on HIV Science in Paris (IAS 2017) in July 2017Benjamin Ryan

A cornerstone of amfAR’s HIV cure initiative is a $20 million, five-year grant to the University of California, San Francisco. Paul Volberding, MD, is a UCSF professor of medicine and the principal investigator for the amfAR-funded operation at the university, known as the amfAR Institute for HIV Cure Research.

Volberding told POZ that he and his colleagues “are emerging as leaders in this field with increasingly promising findings thanks to amfAR’s generosity. The institute has not been involved in issues surrounding amfAR’s charity auctions but hopes that any questions can be quickly resolved, allowing the foundation’s leadership in cure research such as ours to continue.”

UCSF’s Paul Volberding, MD and Steven Deeks, MD, both top HIV cure researchers, at the 2017 UCSF amfAR HIV Cure Summit, November 2017.Courtesy of UCSF/Getty Images

Personal fallout: “Kenneth Cole has never understood AIDS activists”

The tone of the mid-November letter from Cole’s attorney, Michael Shuster, to Peter Staley was just shy of that of a cease-and-desist demand.

“We write because recent statements made by you concerning certain transactions engaged in by amfAR, and Mr. Cole’s role in those transactions, are in material respects false,” the letter began. “It is regrettable that you have sought fit to offer strong opinions on matters about which you are obviously misinformed.”

This position is in line with remarks sent in an email to POZ by amfAR board member Raymond F. Schinazi, PhD, DSc. The HIV researcher and professor of pediatrics at Emory University, who characterized himself as an independent-minded amfAR trustee (as opposed to a Cole loyalist), criticized those who signed the letter calling for the board chair’s expulsion, stating, “The activists haven’t been well informed. Ken [Cole] has been a champion for them and has responded to their (mostly false) claims.”

You would

be well-advised to consider all of the

foregoing…

The two-page Shuster letter concluded by admonishing Staley: “You would be well-advised to consider all of the foregoing should you choose to comment further on any of the matters addressed above.”

An incredulous Staley responded in a statement to POZ: “Never in my 30 years of activism have I received a letter from someone’s lawyer advising me to watch what I say. It was a sad sign that Kenneth Cole has never understood AIDS activists. We can’t be intimidated.”

Peter Staley reflected to POZ that the amfAR board “is at war with itself.”Benjamin Ryan

According to Staley, he and Cole enjoyed an excellent working relationship during their many years serving on the amfAR board together.

“It’s been very, very painful,” Staley said of the auction controversy’s aftermath, “because friendships have basically crumbled.” He made particular note of an “especially painful” break with board member Regan Hofmann, who is POZ’s former editor-in-chief and is now the policy officer at the U.S. Liaison Office in Washington, DC, for the Joint United Nations Programme on

HIV/AIDS (UNAIDS).

The central argument in Shuster's letter came in its second paragraph:

> It is Kevin Frost, amfAR's Chief Executive, rather than Mr. Cole, its (non-executive) Board Chairman, who conducts the day-to-day affairs at amfAR. And so it went with the arrangement between amfAR and Harvey Weinstein whereby the 2015 Cannes Gala auction proceeds were to be split between amfAR and another charity (ART). That arrangement was made by Mr. Frost, who in fact had made a similar arrangement with Mr. Weinstein and ART the year before. In saying this, we do not mean in any way to cast aspersions upon Mr. Frost; the agreement to split auction proceeds was entirely proper and benefitted amfAR. For the record, Mr. Cole has a high regard for Mr. Frost, and believes he has been an effective Chief Executive and valuable colleague.

Certain board members believe that directing focus to the concern of who specifically "arranged" the transactions amounts to a red herring distracting from what these trustees consider much more damning behavior on Cole's part.

"[Cole] misled his own lawyers," Staley told POZ, suggesting Shuster himself did not understand the facts at hand before he wrote this letter. "Kevin Frost is not the issue here. This has always been an internal board struggle that could eventually destroy the organization."

Frost, however, was indeed intimately involved with the transactions.

AmfAR board chair Kenneth Cole, CEO Kevin Frost, board member (as of 2017) Aileen Getty, Jeffrey Friedman, Lisa Heller, then-board member Regan Hofmann and Rob Epstein attend a screening of a film about amfAR at the 2013 Tribeca Film Festival in New York.Ovidiu Hrubaru/Shutterstock.com

The tangled cast of characters

In December 2016, the amfAR board dissidents hired John Moscow, the famous white-collar-crime attorney and former chief of the New York County District Attorney's Frauds Bureau.

This board faction includes Mervyn Silverman, MD, MPH, president of Mervyn Silverman Associates; Arlen Andelson, a retired senior partner at Andelson & Andelson; Jonathan Canno, a retired former chairman of the board and chief executive officer of the Equitable Bag Company; and their apparent leader, Vincent Roberti, a lobbyist and chairman of Roberti Global.

Moscow is no stranger to controversy.

In October 2016, the U.S. Court of Appeals for the 2nd Circuit instructed the U.S. District Court to disqualify John Moscow and his law firm, BakerHostetler, from representing the Cyprus-based company Prevezon, basing its decision upon a potential legal conflict of interest. (Such a move on the part of an appeals court is quite rare.) Moscow had previously represented the company Hermitage Capital, which was in dispute with Prevezon. Reuters reports that the Department of Justice accused Prevezon of buying New York real estate to launder a portion of the proceeds of a

$230 million Russian tax fraud in which Hermitage Capital was a victim. (According to reports in The Daily Beast and Politico, the Russian lawyer who retained Moscow to represent Prevezon was Natalia Veselnitskaya, who infamously promised the Trump campaign damaging information about Hillary Clinton.)

Some two months after Moscow was dismissed from the Prevezon case, the amfAR dissidents retained his services.

"John Moscow," the four dissidents said through a spokesperson, "is widely known to be a lawyer of the utmost integrity and ethics."

As for the rest of the 19-member amfAR board, numerous sources indicate that those who support Cole's continued tenure have long been inclined to see the controversy surrounding the Weinstein auction-lot transactions as overblown.

The optics of the situation look worse than the reality.

"The optics of the situation look worse than the reality," board member Michael J. Klingensmith, publisher and CEO of the Star Tribune in Minneapolis, emailed to three board colleagues in September 2016.

Many of the Cole loyalists fault the dissidents for ignoring their repeated pleas to put the whole matter behind the board and move forward in peace, and for engaging what the loyalists claim are scorched-earth tactics, including leaking incendiary details to the press in what the Cole supporters characterize as an attempt to force changes to the board.

The four dissidents, speaking through their spokesperson, stated:

> We deny that we ever leaked damaging information or took action that we did not believe was in the best interests of amfAR and necessary to fulfill our fiduciary duties as board members. In fact, we never approached any reporter or news organization about these issues. We only responded to inquiries we received with two main priorities—protecting amfAR and its mission and ensuring that facts were reported accurately.

Responding to a claim in Michael Shuster's letter to Staley that the dissidents seek "to achieve ulterior ends," the faction of four continued:

> None of us has ever been motivated by a desire to become Chairman of this wonderful organization. We raised governance concerns about the Weinstein transactions and the

subsequent actions by certain board members to cover it up.

At least a few of the seven amfAR trustees who have resigned since the board began grappling with the auction aftermath left their posts in acts of protest in line with the dissidents' perspective on the matter. This includes venerable HIV researcher Peter Piot, MD, PhD, of the London School of Hygiene & Tropical Medicine, whose October 21, 2017, resignation email prompted Cole to reflect to board colleagues that the scientist's departure "is a great loss to amfAR."

Then there is Regan Hofmann, who left POZ in 2012 and who sent her own resignation email to her amfAR board colleagues, which POZ has obtained, on the same late-December day a searing account of the controversy appeared in Vanity Fair. (Hofmann did not reply to multiple attempts to contact her.) Hofmann, who is living with HIV, stated in this email that "it is because of amfAR's work, guided by the vision of its founders and leaders over the years, including our Chairman Kenneth Cole, that I am healthy and alive today."

She is heartbroken.

Referring to Hofmann's feelings about the actions of the board dissidents, one source described her as "appalled and disgusted by the fact that these trustees are not accepting the sound conclusions of outside council. She is heartbroken."

Former POZ editor in chief Regan Hofmann resigned from the amfAR board on December 20, 2017. “I remain hopeful that amfAR will continue to lead the world to the cure for AIDS,” she told the other trustees in her resignation email.

“Mr. Cole knows that the truth is very bad for him”

Peter Staley perceived the letter from Shuster as a Trojan horse: He believes that Shuster was attempting to get Staley to publish its contents on social media, thus helping to shift the public narrative about Cole’s role in the auction transactions without the amfAR chairman having to directly comment on the matter.

So Staley kept quiet about the letter, sharing it with only a few activists. He referenced it on Facebook only after learning that POZ was developing this report.

“That letter to Peter was a low blow,” BC/EFA’s Tom Viola, who with Staley’s permission obtained the letter from a mutual friend, told POZ. “It looks to me like [Cole is] trying to throw Kevin [Frost] under the bus now, making this Kevin’s fault.”

Viola added that he reacted to news of Gibson Dunn’s nearly half-million-dollar legal bill to amfAR by asking, “Why would Broadway Cares ever give amfAR $50,000 a year in a grant again, if this is how the money’s being spent?” (For all but one year of the past decade, BC/EFA has contributed between $25,000 and $75,000 annually to amfAR, including $25,000 for the past four years and a

total of $690,000 since 2001.)

If this kind of thing is going on, why am I bothering?

“I’m not rescinding anything,” Viola added, “but I’m questioning as to whether we’ll continue. I can’t imagine there are not donors and funders who are going, ‘If this kind of thing is going on, why am I bothering?’”

The Shuster letter would make it into John Moscow’s hands. On December 19, the dissidents’ attorney wrote Cole’s lawyer a blistering response (with Staley cc’d), which POZ has obtained.

“That allegation is false,” Moscow wrote to Shuster, referring to what he perceived as that attorney’s claim that Frost, not Cole, was responsible for the auction transaction. “It is a recent fabrication designed to protect Kenneth Cole from the consequences of his own conduct. It is both false and, being false, a clear sign that Mr. Cole knows that the truth is very bad for him.”

With the exception of Staley’s excerpting one paragraph from each of the letters in his December Facebook post, neither the Shuster nor the Moscow letter has previously been seen by the public.

In his letter to Shuster, Moscow provided a transcript of a tape recording that the attorney said exists (but which POZ has not verified) of the January 31, 2017, board meeting at which Gibson Dunn partner Orin Snyder gave his presentation about the firm’s investigation. During that meeting, which Moscow attended, Cole apparently described how the auction arrangement grew out of a conversation between him and Weinstein and was, as Moscow put Cole’s assessment, “a good deal.”

“I had a conversation with Harvey. It wasn’t memorialized, I have to admit,” Cole reportedly said at that meeting, describing the origins of the auction agreement. “That was between Harvey and I. I believe I mentioned it to Kevin after.”

Moscow added in his letter to Shuster, “[Cole] informed two lawyers working on a report that he had negotiated the deal. They made notes of the conversations.” Two other sources close to the matter backed up this claim to POZ.

What is the truth about the genesis of the auction lots?

Speaking to the Shuster letter’s pivotal use of the word *arranged*, it is true that Frost was instrumental in directly executing the transactions related to the 2015 Weinstein auction lots. It is, after all, his job as CEO to directly oversee CFO Bradley Jensen in managing such financial

matters.

That said, board dissidents have strongly criticized Cole for, as they see it, crossing the boundaries of his authority: by instructing, or going so far as to order, Frost in how to direct the flow of funds into and out of the organization. Cole, as Shuster was keen to point out, is a non-executive board member.

So a key question is whether Frost, along with other staffers, processed the Weinstein 2015 Cannes gala auction transactions essentially under duress—not just from Weinstein but Cole as well.

Regan Hofmann speaking with amfAR CEO Kevin Frost in her capacity as POZ's editor in chief (she left the magazine in 2012).

But even if Frost was subject to strong-arming just how much of a responsibility did he have to refuse Weinstein's demands? Frost was the one with the authority to give the final say-so. And sources say that, historically, Frost was not immune to challenging Cole in the face of disagreements.

The Shuster letter puts the onus on Frost in this regard:

> Mr. Frost never to our knowledge suggested to anyone that he believed amfAR *itself* [italics Shuster's] was in any way engaging in improper conduct. Had he felt that way he would have been duty-bound, as an amfAR officer with fiduciary duties, to take measures to prevent the transaction from occurring, including raising the matter with the full Board if he believed that necessary.

Multiple news outlets have already reported that Frost told Cole (but not the full board) of his strong objections to Weinstein's demands. The amfAR CEO nevertheless bowed to pressure and saw to it that those demands, often channeled via Cole, were met.

Backing up one of Shuster's points in his letter to Staley, email records do indicate that for the 2014 Cannes gala, Frost and event planner Andy Boose, who oversees the benefit, were the ones who negotiated with Weinstein's camp a set of auction lots with an intended revenue split—between amfAR, ART and a third charity.

I fucking hate Harvey Weinstein.

"I fucking hate Harvey Weinstein," Frost exclaimed to Boose, responding to news of Weinstein's wishes for the three-way revenue split.

The CEO then told Boose to ask Weinstein to offer a second lot, and only then would Frost capitulate to a split-revenue deal for that auction offering. Frost went on to lament, "I don't like him hijacking our event to support other causes he likes."

In the end, the auctioneer made a mistake in the sale of the lots and they were ultimately nullified.

According to a key source, Weinstein first alerted Boose in early 2015 to his desire for a new set of revenue-split auction lots, this time for amfAR's New York gala set for that February. Boose informed Frost of this request, and Frost in turn alerted Cole. The board chair said he would speak directly with Weinstein about the matter and, according to an email POZ obtained, ended up telling Weinstein that amfAR would work something out for such auction items for the Cannes event in May.

Multiple sources have indicated that after the 2015 Cannes gala, Cole continued to caucus with Weinstein about how to handle the auction-lot proceeds. Then Cole instructed Frost and others to honor Weinstein's wishes.

At 4:16 p.m., on June 1, 2015, about 30 minutes after Weinstein's camp wired amfAR his effective loan of $600,000 and with the film mogul's unexplained end-of-day deadline looming, Frost sent his widely reported email stating his objections to the transaction. But he did not blow the whistle loudly at this key moment. Instead, the email went to CFO Bradley Jensen alone.

"Nothing about this deal feels right to me," Frost wrote to Jensen, noting that he had told Cole he didn't believe amfAR should execute the funds transfer before hearing back from the auditor. Frost continued:

> I believe we have not done due diligence to understand exactly what this money is being directed to or why amfAR is being used to facilitate these transfers. Kenneth has heard my

> concerns and despite that is directing amfAR to execute this transfer to ART in fulfillment of an agreement he made with Harvey Weinstein.

Such grave concerns notwithstanding, Frost then told Jensen to "create the template for this transfer" to ART in preparation for confirmation of the wire from The Weinstein Company.

At 5:03 p.m., amfAR wired ART $600,000.

Attorney Thomas Ajamie's September 2016 board-commissioned report stated that, in the view of its financial fraud specialist author, these transactions "exposed amfAR to material risks to its financial integrity and reputation" and also that that Cole overstepped his authority. Ajamie's report, for which he charged the foundaiton $40,000, also raised troubling yet, at the time, still-unanswered questions about Weinstein's intentions behind pushing these transactions.

Cole has privately stated that he maintained a willful ignorance about Weinstein's motives for the revenue split. According to Ajamie's report, Cole said he had not inquired about the purpose of the $600,000 wire to ART or about the hard June 1 deadline because he believed it was best not to ask Weinstein such questions. (A representative for Cole told HuffPost that the claim that Cole kept his hands over his ears was a "false representation of the facts.")

That said, in November 2017, Cole told the New York Post: "Any suggestion that I somehow made this deal as a favor to Weinstein is ridiculous and patently false."

Kevin and the staff were extremely honest and forthright.

Ajamie declined to discuss his interview with Cole on the record but stressed to POZ that during his team's own discussions with amfAR employees, "Kevin and the staff were extremely honest and forthright during the whole process. It was painful for them."

Cole also stressed to HuffPost that the Weinstein auction deal netted "significant funds" for amfAR. That calculation fails to take into account the resulting legal and consulting fees the organization has incurred and any hit to fundraising the negative publicity has caused and may continue to cause.

Numerous sources argued to POZ that an imbalanced working dynamic between Frost and Cole, at least in the context of this this particular transaction, was instrumental in driving amfAR's current woes and is one of the chief reasons an overhaul of the foundation's governance policies is in order.

Email records suggest that Frost feared causing a schism with his board chairman. On July 21, 2015, confronted by news from Cole that Weinstein wanted his $600,000 back immediately, the

CEO emailed board member John Simons to complain: “I don’t even know what to say to Kenneth at this point. I did not and would not agree to these terms. I fear that if I tell him that I am unwilling to go along, it will cause a significant rift. That said, I’m not willing to go along.”

After securing Weinstein’s written promise to repay amfAR for any unredeemed auction lots, Frost relented.

An ACT UP member who began at amfAR as an assistant in 1994, Frost ascended the ranks and was appointed CEO in 2007. Activists and board members alike generally speak in glowing terms about him. Phill Wilson, president and CEO of The Black AIDS Institute, called Frost “one of the most ethical people I’ve ever met.”

Black AIDS Institute CEO Phill WilsonCourtesy of The Black AIDS Institute

Staley, whose amfAR board tenure ran from 1991 to 2004 and was followed by a nonvoting membership through 2007, praised Frost, saying that after he became CEO, “the staff morale, it was just night and day compared to the previous leadership.”

On the question of Frost’s personal commitment to his job, the amfAR head is universally described as passionately devoted to the HIV cause. It is also a fact that by any measure, his compensation—he reportedly has a salary of $425,000, and, according to public documents, his

total 2016 compensation was well over a half million—is substantially greater than that of the heads of other major HIV organizations.

AmfAR spokesperson AnnMari Shannahan told POZ that no amfAR staffers would comment for this article.

AmfAR cofounder Dame Elizabeth Taylor, who famously took her glamor and grit to Washington, DC, to fight for AIDS funding in the halls of Congress during the early days of the epidemic.Featureflash Photo Agency/Shutterstock.com

The dispute keeps getting uglier

The headaches related to the auction lot proceeds were just the opening act of the controversy surrounding Cole's involvement with the matter. Board dissidents have levied accusations at Cole that he worked in concert with Weinstein to orchestrate Gibson Dunn's hiring in a supposed scheme to cover up the findings of Thomas Ajamie's initial investigation of the transactions.

Cole’s attorney, Michael Shuster, told Staley that the activist’s public suggestion of a conspiracy was “pure (but destructive) nonsense.”

According to multiple sources, a four-person board committee tasked with overseeing Ajamie’s work concluded that the attorney’s September 2016 report was factual, a finding that Cole was apparently the only one to challenge when the committee presented the report to the full board. (Some board members strongly dispute this claim, saying they do not recall any such resolution affirming the veracity of the Ajamie report.)

The report at the very least greatly annoyed certain trustees. According to Moscow’s complaint to the state attorney general, Cole for one made clear his anger and offense over how he was treated by Ajamie’s team.

The Ajamie report ‘ presented its information in a prosecutorial tone.’

Patricia Matson, in her September 2016 letter to her board colleagues, wrote that the Ajamie report “presented its information in a prosecutorial tone inappropriate for what should have been an even-handed report.” She insisted it was time to “try and put this episode behind us.”

The board was still left with an important, unanswered question, though: Ajamie was never able to weigh in on the legality of the transactions because he was not able to obtain ART’s contract with the producer.

Thomas AjamieCourtesy of Tom Ajamie

Ajamie’s actions and interactions—the tripwire?

Shortly after Ajamie provided his report to the amfAR trustees, the full board gained considerable reason to eye the attorney with frustration and even anger.

According to what Ajame recounted to POZ, during the course of his investigation for amfAR, various sources volunteered information to him about alleged sexual misconduct on Weinstein’s part.

AmfAR soon got word, factual or not, that Ajamie was actively investigating Weinstein’s behavior toward women, perhaps even under the guise of working for the foundation.

“Everyone in the film industry had been openly talking about Harvey’s [alleged] sexual misconduct for decades,” Ajamie told POZ in response to the accusation that he had proactively inquired about

this subject. “It was blatant and known.”

Weinstein called Cole in a rage.

In mid-October 2016, Weinstein called Cole in a rage, accusing amfAR of stabbing him in the back by siccing its lawyer on him in a defamatory campaign. As Cole would promptly inform the board, Weinstein threatened not only to sue each trustee but also to investigate each of them in search of damaging information. Within a week, at Cole’s urging, the board retained Gibson Dunn to reinvestigate the auction matter and to look into Ajamie’s recent actions.

Thirty minutes before a key board meeting to vote on whether to hire Gibson Dunn, Weinstein, somehow alerted to the vote, called lead dissident Vincent Roberti and pressured the trustee to vote in favor. Roberti wound up abstaining.

The dissidents would eventually claim that Snyder’s independence was tainted from the start because Gibson Dunn had previous dealings with Weinstein, a fact these trustees claim was for months kept secret from the full board.

Any suggestion that the prior representation was not promptly and fully disclosed to the board is false.

As reported in an October article in the Financial Times, Snyder had represented Weinstein in a dispute in which Weinstein Co. board members accused him of using his company’s credit facility to draw cash advances against the licensing of films that were under his personal ownership. (Asked about this report from FT, Gibson Dunn told POZ the firm had no comment.)

Snyder reported to POZ that he disclosed his previous work for Weinstein at the very outset of talks with amfAR in October 2016, initially informing board vice chairman Donald Capoccia. A principal at BFC Partners who is a Cole supporter, Capoccia was on the committee tasked with retaining a new law firm to review the transactions and was the one who first reached out to Gibson Dunn about representing the foundation. The Gibson Dunn partner said he offered the same information on multiple occasions to members of the board’s audit committee, led by John Simons, which was responsible for overseeing the firm’s work for amfAR.

Sources recall that word of the prior professional relationship between Snyder and Weinstein did not reach the full board before amfAR retained Gibson Dunn.

According to a statement from Gibson Dunn, “We were asked to consider—and we investigated—whether the Cannes transaction was lawful on the part of amfAR. Our firm’s expert on charities law, who used to oversee the New York Attorney General’s Charities Bureau, and our

most experienced corporate governance lawyers, concluded that amfAR and its board acted lawfully in connection with the Cannes auction transaction." (Gibson Dunn was able to obtain the ART-Weinstein contract from a Weinstein Company attorney.)

Snyder reported this bottom-line finding during his nearly three-hour presentation to the board on January 31, 2017. It was in the course of this meeting, responding to questions from dissident Mervyn Silverman, that Snyder informed the full board that he had previously represented Weinstein on what he told them was a small and unrelated matter. (Snyder had also once represented a client that was in a dispute with Weinstein.)

Snyder stressed to POZ that the nature of his initial talks with board members about his previous work for Weinstein was "consistent with subsequent discussions with the entire board. Any suggestion that the prior representation was not promptly and fully disclosed to the board is false."

Snyder's report paid considerable attention to raising critical questions about Ajamie—about that attorney's report to amfAR and his own apparent investigation of Weinstein. The dissidents have argued that Snyder was attempting to quash Ajamie's findings, advocate for Weinstein and also appease a wounded Cole.

It remains a fact, however, that amfAR had specifically hired Gibson Dunn to look into outstanding issues that Ajamie report had not dealt with or left inconclusive, as well as the accusation that Ajamie had kept on Weinstein's trail even after the attorney issued his September 2016 report to the amfAR board.

Attorney Orin Snyder, partner at Gibson, Dunn & CrutcherGibson Dunn

The divisive power of a Weinstein NDA

The amfAR board's brewing civil war escalated during the weeks that followed Snyder's presentation—when Weinstein's camp sent the trustees one of his highly restrictive nondisclosure agreements (NDAs) to sign.

The film producer's wrath toward amfAR reached a fevered pitch after the breakfast meeting he held with Ajamie and the attorney's friend Lisa Bloom (daughter of the famed women's-rights legal warrior Gloria Allred) on January 27, 2017, at the Sundance Film Festival in Park City, Utah.

According to an email that Weinstein's attorney David Boies (famous for representing Al Gore in

the Supreme Court case that effectively decided the 2000 election, *Bush v. Gore*) sent Snyder the next day, the film producer attended the breakfast meeting "for the purpose of confirming whether or not the reports we had received were accurate." Weinstein had long believed that, as Boies characterized the matter, "Ajamie, representing amfAR, was conducting an 'investigation' of Harvey Weinstein."

Ajamie's 'investigation' was supported by 'back channel' discussion with certain members of the amfAR board.

"Mr. Ajamie admitted that he was continuing to 'investigate' Mr. Weinstein," Boies reported to Snyder. "Mr. Ajamie also asserted that his 'investigation' was supported by 'back channel' discussion with certain members of the amfAR Board, which Mr. Ajamie refused to identify."

At the Sundance meeting, Weinstein told Ajamie he had heard the attorney had accused him of rape. Otherwise, in Ajamie's words, the Hollywood titan engaged in "a two-hour meltdown, during which he talked about his treatment of women, Academy Awards, films, controversies in Hollywood and many of his life problems. And at the end of it, he asked me to sign a nondisclosure agreement to not tell anyone what he had just told me." Ajamie refused to sign.

Snyder wrote a cease-and-desist letter to Ajamie on behalf of amfAR, threatening a lawsuit over the attorney's inquiries into Weinstein.

Little had changed since the previous fall in that Cole, along with a majority of the board, shared with Weinstein a common interest (although for vastly different reasons): to cauterize what by then had become an even more hazardous situation with Ajamie for all involved.

"This was before the revelations about Harvey Weinstein," Gibson Dunn noted in its statement to POZ, which stressed that during those early months of 2017 Weinstein was still a well-respected amfAR donor; the explosion of press reports about Weinstein's alleged sexual misconduct would not begin until October. "Given the risk of litigation, NDAs were sought to protect the organization."

The activist community has directed considerable scorn at Cole for his part in the NDA rollout. Staley, in a November 13, 2017, Facebook post went so far as to claim Cole "forced" the others to sign. In his letter to the activist, Cole's lawyer, Michael Shuster, took particular umbrage with such a characterization. "The very idea is absurd," Shuster scoffed.

Cole, Staley argued to POZ, should have publicly announced what had transpired with the auction

lots transactions as soon as Gibson Dunn informed amfAR of the reason Weinstein wanted the $600,000 for ART. Then, the activist insists, amfAR should have ended its relationship with Weinstein and dealt with any related fallout accordingly.

Peter Staley in action during his ACT UP daysWilliam Lucas Walker

Cole did indeed urge the trustees to sign the NDA with Weinstein, which would keep them silent about anything they had learned about the film producer's "personal or financial information" in exchange for Weinstein's promise not to "engage in wrongful conduct involving amfAR." This, Cole said in a March 2, 2017, email to trustees, would help put the matter behind the board. "We believe we are gaining more than we are giving," he wrote.

As some board members held out, Weinstein sweetened the deal by promising amfAR $1 million if the entire board signed. But there were additional strings: The pledge was contingent upon Cole and Frost remaining in their positions, although these stipulations were not written into the final document.

In the end, the four dissidents refused to sign and decided to step up their offensive, with John Moscow as their representative. On April 12, 2017, Moscow sent a detailed letter of complaint,

along with supporting documents, to the New York State Attorney General's Charities Bureau, spelling out the board's actions related to the Weinstein auction lots.

In one paragraph of his two-page letter, Moscow took issue with a passage in the October 2016 retainer agreement between amfAR and Gibson Dunn, which read:

> "We [Gibson Dunn] do not believe, however, that our simultaneous representation of you [amfAR] in the present matter and our representation of another client in any such substantially unrelated matter adverse to you will compromise our ability to adequately represent you."

Moscow, who had been recently disqualified from representing Prevezon for his own conflict of interest in the Russian money laundering case, argued to the charities bureau that the retainer language he quoted "purports to let Gibson Dunn represent both amfAR and Harvey Weinstein."

The retainer passage is a boilerplate waiver.

Lawrence J. Fox, a lecturer at Yale Law School who is an expert in professional responsibility and corporate governance, told POZ that the retainer passage is a boilerplate waiver used by virtually all major law firms. The forward-looking language, Fox said, could theoretically provide Gibson Dunn an argument that the firm could represent Weinstein in a future unrelated matter that itself could be adverse to amfAR.

UCSF’s Paul Volberding, MD, Peter Hunt, MD, Nadia Roan, PhD, Satish Pillai, PhD, and Jeff Taylor, at the 2017 UCSF amfAR HIV Cure Summit, November 2017.Courtesy of UCSF/Getty Images

Chairman Cole’s last stand?

According to the dissidents, Cole sought to stack board committees with loyalists when he made a series of changes to such trustee assignments in September 2017, doing this only days after receiving the state attorney general’s letter encouraging governance reforms. This included adding John Simons, who apparently supports Cole’s tenure, to every standing board committee.

In his letter to the state attorney general, Moscow claimed that Cole “and his allies on the board” sought to remove dissidents Silverman and Roberti from key board leadership positions, including ending Roberti’s role as “chief fundraiser for the foundation.”

Additionally, the dissidents have accused Cole of appointing four previously nonvoting trustees to the full voting board with the expectation that they would back him. Two of these newly appointed members, Aileen Getty, the heiress who was once married to the son of amfAR cofounder Elizabeth Taylor, and Mario Stevenson, PhD, an infectious disease researcher at the University of Miami, denied being Cole loyalists.

Aileen Getty, newly appointed to the full amfAR board after serving as a nonvoting member.DFree/Shutterstock.com

My commitment is to amfAR.

Each of the two told POZ—in Getty's case through a spokesperson—that, as Stevenson put it, "My commitment is to amfAR." The other two new full board members, legendary entertainer Harry Belafonte and Alan Schwartz, executive chairman of Guggenheim Partners, did not reply to multiple attempts to contact them.

With the resignation of Regan Hofmann, Getty stands as the only current board member who is openly HIV positive. The lack of people on the board who are living with the virus is a significant bone of contention among HIV activists.

What will become of amfAR?

Another deluge of negative publicity could be in the forecast for amfAR given what news may emerge from the U.S. attorney's investigation of the Weinstein-related auction transaction.

As for the effects of Shuster's letter to Staley, according to the activist, the letter "was discussed

at length” during a 90-minute meeting he and POZ founder Sean Strub had with the charities bureau on December 14. Staley reported that the state attorney general’s office is “seriously concerned” about amfAR’s status quo.

Indeed, the charities bureau stressed in its September letter to Snyder that it is “crucial to restore stability to amfAR” and that reform to the foundation’s governance policies would help “resolve amfAR’s internal turmoil.” The letter took care to observe that this “discord has distracted the organization from its crucial mission—supporting research to find a cure for HIV/AIDS.”

The amfAR board will consider at its crucial February 7 meeting that letter’s numerous recommendations for reform, which include imposing term limits for trustees, honing the organization’s whistle-blower policy, increasing transparency, and training board members and officers about the division of responsibility between the staff and board.

Kenneth Cole has adamantly refused to step down from his post as chairman of the amfAR board. JStone/Shutterstock.com

Multiple trustees expressed to POZ their eagerness to institute changes to amfAR that would help the charity move forward. A trustee who backs Cole’s tenure indicated that the board would go even further with reforms than just adopting what the charity bureau recommended.

“We are working hard to fix amfAR so nothing like this ever happens again,” board member Raymond Schinazi stated in an email to POZ. “Pointing the finger doesn’t solve problems. A number of board members are up for election in February including Ken [Cole]. If the Board has no confidence in him he will not be re-elected. The opposite is also true.”

Schinazi predicted the board would seek to diversify its membership, meaning “more women, blacks and Hispanics and young and older people,” he said. “I’d like to see more people directly involved with HIV, who have HIV or who really care about people with HIV.”

One former board member said that the only way Cole will leave the board immediately is if he is voted out, which, this individual argued, was an impossible outcome given the apparently substantial voting bloc that continues to stand by him. A current trustee who said it would be inappropriate for Cole to step down in disgrace because the chairman did nothing wrong envisioned that Cole would instead get shuffled out through term-limits-guided attrition after another couple of years.

This is about legacy protection.

Speculating on Cole’s motivations for staying on as chairman, Staley told POZ, “My gut feeling is that this is about legacy protection. He wants to defend that commitment; he’s proud of it, and he doesn’t want the final note to be a cloud. He wants to leave on his own terms. But it’s about stubbornness. The math that I think he’s done in his head, he’s willing to let amfAR suffer for a few years, just to protect that personal legacy.

“I’ve told everybody on the board,” Staley said, “‘You’re all putting your own egos above the organization right now.’” Speaking of Cole he continued, “He’s doing that more than anyone else.”

As for board member Patricia Matson, she appealed for a broader scope when assessing Cole’s chairmanship.

“Sometimes, when success has a good long run, how it happened gets taken for granted,” Matson said of Cole’s lengthy tenure. “People forget how hard it is to build something and how fragile success can be.”

Benjamin Ryan is POZ’s editor at large, responsible for HIV science reporting. His work has also appeared in The New York Times, New York, The Nation, The Atlantic and The Marshall Project. Follow him on Facebook, Twitter and on his website, benryan.net.

Full disclosure: The author is a friend of Peter Staley, who is the founder of AIDSmeds, a site of POZ’s parent company, Smart + Strong. The author wrote for a short time for POZ under former editor-in-chief Regan Hofmann and also contributed to AIDSmeds. He is also a longtime fundraiser for BC/EFA.

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http://beta.docker.poz.com/article/kenneth-cole-shifting-blame-harvey-weinstein-charity-controversy