



November 13, 2017

Ronald D. Liebowitz
Office of the President, MS 100
Irving Enclave 113
Brandeis University
415 South Street
Waltham, MA 02453
781-736-3001

URGENT

Sent via U.S. Mail and Electronic Mail (president@brandeis.edu)

Dear President Liebowitz,

We are a group of free speech advocates with a resilient interest in comedian Lenny Bruce's life and legacy. We write to you today because we are concerned by recent reports that a play scheduled to be staged this month at Brandeis University was postponed and subsequently abandoned, in part because it utilized material from the university's Lenny Bruce archives — material that some within the university found “challenging.” We call upon Brandeis to reaffirm the principles of freedom of expression, inquiry, and debate upon which any institution of higher education must be based, and to commit itself to engaging with the challenging material in the play by staging it as intended — not censoring it.

It is our understanding that the play, “Buyer Beware,” written by celebrated playwright and Brandeis alumnus Michael Weller, uses excerpts and ideas from Lenny Bruce's routines as catalysts for a fictional debate about free speech on Brandeis' campus. Lenny Bruce's comedy has long been both controversial and groundbreaking. During his lifetime, he was subjected to six obscenity trials, purportedly for words that today are regularly used in all forms of artistic expression. These prosecutions left Bruce bankrupt and unable to work before dying in 1966 at the age of 40. “We drove him into poverty and bankruptcy and then murdered him,” said Vincent Cuccia, one of Bruce's New York prosecutors. “We all knew what we were doing. We used the law to kill him.”

Americans have since recognized the injustices dealt to Bruce. He was the last comedian to be criminally prosecuted for obscenity in the United States. Today, Bruce is revered as a champion of free speech and First Amendment principles — so much so that he was posthumously pardoned by New York Governor George Pataki in 2003. His life story serves as a cautionary tale of what happens when we censor artistic expression.

Given this history, the undersigned are sensitive to the possibility that Bruce's words may again be censored. Our unease is amplified by the fact that such censorship may occur at Brandeis University, named after the staunch free speech advocate and United States Supreme Court Justice Louis Brandeis. Our concern is all the greater insofar as the university is the institutional custodian of the Lenny Bruce archives and much of Bruce's legacy.

A 2004 box set of Bruce's comedy was titled "Let the Buyer Beware." Perhaps not coincidentally, "Buyer Beware" is also the title of Weller's play. Surely when Brandeis accepted the responsibility of preserving Bruce's archives within its library, it well understood the risks associated with doing so — *caveat emptor* — and tacitly, if not explicitly, agreed that it would spare Bruce the injustice of committing or enabling his posthumous censorship.

In a statement responding to the cancellation of the fall production of "Buyer Beware," Brandeis announced that "faculty members considered the challenging issues [the play] raised" and decided that more time was needed to produce the play "appropriately." The statement goes on to relinquish the university's responsibility for the play's subsequent cessation by foisting responsibility upon Weller, who did not approve of this more "appropriate" production, which subsequent reports indicate was not even presented to him. According to a statement from the Dramatists Guild of America and the Dramatists Legal Defense Fund, Weller "has heard only indirectly about the possibility of doing it at 'a 60-seat black box theatre in Watertown that has some lights, and a budget for one or two professional actors.'"

Numerous reports indicate that the decision to forestall the planned production of "Buyer Beware" comes amid a concerted effort by some Brandeis students and alumni to cancel the play. The campaign was allegedly led by a Brandeis alumna, who reportedly admitted to having never read the play's script, yet claimed that it "is an overtly racist play and will be harmful to the student population if staged." Scholars of Bruce's life know well that attempts at prior restraint are insidious and beget more censorship. Indeed, after Bruce was first prosecuted in one court, additional prosecutions soon followed. "Don't lock up these 6,000 words," Bruce pleaded to one New York City judge during a court hearing.

We write to ask for more details about Brandeis' decision to cancel this month's production of "Buyer Beware." What material, *exactly*, did the university consider too "challenging" for its students and faculty? And why, when an agreement could not be reached with Weller to find a more "appropriate" setting for the play, did the university decide not to stage the production as intended, and instead defaulted to functionally censoring the "challenging" material instead of openly engaging with it?

We call upon Brandeis University to answer these questions in a manner consistent with the principles of freedom of speech to which the university claims to commit itself, principles that are integral components of Lenny Bruce's and Louis Brandeis' legacies. If it cannot, we ask you to immediately reverse the decision to cancel this month's production of "Buyer Beware" and to reinvite Weller to stage it as intended. The play itself presents a direct challenge to the university — according to *The Brandeis Hoot*: "If Lenny Bruce came to life right now, for one day, and he was booked for a gig on campus. How would the administration react?"

Again, we urge the university to commit itself to reinviting Weller to stage "Buyer Beware" as intended, thereby defending the very free speech principles for which Lenny Bruce fought throughout his life.

To you, President Liebowitz, we repeat the question and also ask: Did the Lenny Bruce archives end up in the "appropriate" place?

We look forward to hearing from you by Friday, November 17.

Sincerely,

Foundation for Individual Rights in Education

Kitty Bruce
Daughter of Lenny Bruce
Founder, The Lenny Bruce Memorial Foundation

Penn Jillette
Comedian and magician, Penn & Teller

Robert Corn-Revere
Partner, Davis Wright Tremaine LLP

Attorney responsible for successfully petitioning Governor George E. Pataki to grant the first posthumous pardon in New York history to Lenny Bruce in 2003

Ronald K.L. Collins
Harold S. Shefelman Scholar
University of Washington, School of Law
Co-author, *The Trials of Lenny Bruce*

David M. Skover
Fredric C. Tausend Professor of Constitutional Law
Seattle University School of Law
Co-Author, *The Trials of Lenny Bruce*

Noam Dworman
Owner, Comedy Cellar

Ted Balaker
Director, *Can We Take a Joke?*, a film about the life and legacy of Lenny Bruce

Courtney Balaker
Producer, *Can We Take a Joke?*