August 21, 2016

Mr. Douglas Parrott
Division Director
U.S. Department of Education
Federal Student Aid, School Participation Team – Chicago
500 West Madison Street
Chicago, IL 60661

Sent via email to Douglas.Parrott@ed.gov

Re: Request for Reconsideration concerning:
OPEIDs: 00367400 – Stevens Henager College
02110800 – California College San Diego
02594300 – CollegeAmerica Denver
03120300 – CollegeAmerica – Flagstaff

Dear Mr. Parrott:

On August 11, 2016, 44 months after the Center for Excellence in Higher Education ("CEHE") submitted change of ownership applications for the colleges listed above (the "Colleges"), the Department notified CEHE of its decision on the applications ("Decision"). Prior to sending the Decision to CEHE, the Department ambushed CEHE by distributing a press release containing inappropriate and unsubstantiated accusations, vilifying CEHE and the Colleges' former owner. As a result, the media, CEHE employees, its bank, business associates, and colleagues learned about the Decision before CEHE's Chief Executive Officer.

I. Improper Political Motive and Denial of Fundamental Fairness and Justice

Delivering its Decision to the media *before* providing a copy to CEHE[1] reveals the Department's intent to politicize the CEHE change of ownership process. The advance press release, which contained egregious, unsubstantiated charges against CEHE, the Colleges' former owner, and the Carl Barney Living Trust ("Trust"), denies CEHE fundamental fairness and due process.

[1] The Department issued a press release and redacted copy of its decision to media outlets at 10:32am eastern (see Exhibit 1). The Department did not send its decision to CEHE until 10:42am eastern (see Exhibit 2).

The orchestrated timing of the press release indicates that this Decision was based upon advancing a political agenda and not on an unbiased application of law and regulation. Further evidence that this Decision was based upon a political agenda is the fact that two of the most senior executives in the Department of Education, Secretary of Education John King and Under Secretary Ted Mitchell, made alarming and unprecedented direct quotes in the press release. Secretary of Education King stated that "*This [denial of nonprofit status] should send a clear message to anyone who thinks converting to non-profit (sic) status is a way to avoid oversight while hanging onto the financial benefits: don't waste your time*." This statement reveals the Department's basis for the Decision. This statement also includes a gratuitous allegation from the Secretary that CEHE's change of ownership was an attempt to avoid regulatory oversight. That allegation is false; and is intended to intimidate other colleges from lawfully exercising their rights pursuant to the Higher Education Act of 1964, as amended ("HEA").

The Secretary's quote is followed by one from Under Secretary Ted Mitchell: *"Schools that want to convert to non-profit (sic) status need to benefit the public. If the primary beneficiary of the conversion is the owner of the for-profit school, that doesn't meet the bar. It's not even close."* It is disturbing that the Under Secretary would make such a statement when the Department's Decision contains no facts, evidence, or support for such an egregious allegation. Why? Because CEHE's Colleges demonstrably do benefit the public. In fact, in the fall of 2015, CEHE presented clear evidence directly to Under Secretary Mitchell demonstrating how the Colleges benefit the public[2]. For example, since January 2013, CEHE's Colleges have awarded scholarships and grants to students totaling over $28 million dollars[3]. Further, CEHE's Colleges have provided 100% free GED preparatory tutoring and instruction (including paying the cost for participants to take the GED exam) through its Good Neighbor Initiative. This program alone has helped over 3,000 people earn their GED for free! Such efforts provide substantial public benefit.

For the Department to issue a press release such as this (with false, inflammatory, and threatening claims) as the means of informing a college of a significant decision exemplifies an agenda-driven judgment and effort to smear CEHE Colleges.

Even though CEHE has operated its Colleges as nonprofit institutions since December 31, 2012,

[2] See Exhibit 3 – letter from Duane Morris attorney to Under Secretary Ted Mitchell.
[3] See Exhibit 4 – CEHE Grants and Scholarships since January 2013.

the Department did not give CEHE any notice of its belief that the Colleges remained "for-profit" for Title IV regulatory purposes until the Department sent a request for documents to CEHE on March 15, 2016. Since then, CEHE has submitted at least eight urgent requests to the Department imploring the Department to meet with CEHE, in person or by telephone, to review the basis for the Department's position. Instead of meeting with CEHE, the Department denied all of our requests and then ambushed CEHE with its Decision. As discussed below, the Decision is based on a misapplication of law, disregards the plain language of applicable regulations, ignores controlling Internal Revenue Service ("IRS") precedent, and/or relies upon unfounded surmise or conjecture contradicted by objective facts.

The Department's political agenda is not a proper basis for this Decision. It is wrong for government officials to impugn the character and credibility of a lawful nonprofit institution (and its principals) simply because the nonprofit organization acquired what had previously been proprietary institutions. The Decision assigns malicious motives to perfectly moral and lawful activities. It is particularly immoral for the government to "poison the well" with a press release (before informing the institution and affording it an opportunity to respond) – designed to influence members of the public or seek to affect judicial or regulatory processes.

II. The Ultimate Aim of the Department's Decision

This Decision is based upon the bias and animus of certain loud critics of the private career college sector. Evidence shows that the Decision is driven by an agenda originating with a discredited former Department of Education Deputy Undersecretary Robert Shireman (who is now with the Century Foundation, a self-proclaimed "progressive" think tank). Following his alleged collusion with short-sellers of publically traded proprietary colleges in 2010[4] and his sudden departure from the Department of Education, Mr. Shireman, in 2014, launched an attack against proprietary colleges that had converted to nonprofit corporations. He initiated his attack by filing a complaint against Keiser College's former owner, Dr. Arthur Keiser. Then, in March 2015, Mr. Shireman provided information to the New York Times for an article which, among many false allegations, invented a claim that CEHE's acquisition of the Colleges was to evade new regulations applicable to for-profit colleges[5].

After release of the New York Times article, a group of 21 legislators sent a letter to then

[4] See Exhibit 5 – Robert Shireman Background
[5] See Exhibit 6 – NY Times Article

Secretary of Education Arne Duncan demanding that the Department rigorously scrutinize transactions involving for-profit colleges being merged into nonprofit corporations[6]. Clearly, this letter persuaded the Department to take whatever action it could to appease these legislators' demands to discredit and prohibit nonprofit corporations from controlling former proprietary colleges. Mr. Shireman continued to advance his agenda by publishing a "study" titled "*The Covert For-Profit*" in October 2015[7]. Prior to publishing this so-called "study", the Century Foundation contacted CEHE for comment. CEHE promptly corrected many falsehoods and inaccuracies that Mr. Shireman had planned on including in his report[8]. *The Department has almost completely adopted Mr. Shireman's agenda*. That adoption indicates the true basis for the Department's Decision. In doing so, the Department has inappropriately based its Decision on advancing a political agenda. This is legally and morally wrong. The Decision must be governed solely by existing laws and regulations and the Department must reconsider the Decision without taking into account any political agenda.

III. CEHE's Mission Benefits the Public and CEHE Operates Good Colleges

CEHE believes it is important for the Department to acknowledge that our Colleges' results are measurably better than government 2-year community colleges. Our Colleges serve similar students. On one important measure, graduation rates, CEHE's Colleges perform better than the 2-year public colleges in the states where CEHE's Colleges are located[9]. According to the most recent data from the Department's IPEDS system, CEHE's Colleges in California have an average graduation rate of 33.5% and California's community colleges have an average graduation rate of 27.4%; CEHE's Colleges, therefore, have an average graduate rate 22% better than public 2-year colleges. Similar results have been achieved in the other states where CEHE operates Colleges. CEHE's Colleges in Arizona have an average graduation rate of 41.9% versus 16.2% for Arizona community colleges (159% better). CEHE's Colleges in Colorado have an average graduation rate of 33.3% versus 28.2% for Colorado community colleges (18% better). And CEHE's College in Salt Lake City, Utah has a graduation rate of 28.8% versus 15.9% for Salt Lake City Community College (81% better). On many other important objective measures, such as time-to-completion, CEHE's Colleges are superior.

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[6] See Exhibit 7 – Democrat Letter to Duncan
[7] See Exhibit 8 – Covert For-Profit Report
[8] See Exhibit 9 – CEHE Response to Century Foundation Before "Covert" Report Published
[9] See Exhibit 10 – IPEDS Graduation Rate Data for CEHE Colleges and Community Colleges

IV. Basis for Reconsideration

While the Decision contains substantial misrepresentations and inaccuracies warranting reconsideration[10], CEHE will focus its request for reconsideration on to two primary charges levied against CEHE, the Colleges' former owner, and the Trust. These two charges serve as the putative basis for the Decision. Both charges are baseless and unsupported by evidence, law, or regulation. CEHE addresses other miscellaneous determinations from the Decision in the attached Appendix 2[11].

The first charge is that the Colleges' former owner's continued participation in the organization (and his alleged significant post-transaction control) does not conform to required definitional elements in 34 C.F.R. §600.2. The second charge is that the Trust and the Colleges' former owner have inappropriately retained the benefit of a continued stream of Title IV revenues, via debt payments and lease payments, which also fail to conform to required definitional elements in 34 C.F.R. §600.2. As set forth below, both of these determinations are inaccurate and inconsistent with the law and precedent.

a. CEHE's Colleges Satisfy 34. C.F.R § 600.2

34 C.F.R. §600.2 defines a nonprofit institution as one that:

> (1)(i) is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which benefits any private shareholder or individual;
>
> (ii) is legally authorized to operate as a nonprofit organization by each State in which it is physically located; and
>
> (iii) is determined by the U.S. Internal Revenue Service to be an organization to which contributions are tax-deductible in accordance with section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3).

CEHE's Colleges satisfy all of the definitional elements for a nonprofit institution in 34 C.F.R. §600.2. The Colleges are owned and operated by a nonprofit corporation. CEHE is legally authorized to operate as a nonprofit organization in each State where it is physically located. The Department does not dispute this fact. And, CEHE has been determined by the IRS to be an

[10] See Appendix 1 – Decision Inaccuracies and Misrepresentations
[11] See Appendix 2 – Miscellaneous Determinations in the Decision

organization to which contributions are tax deductible in accordance with section 501(c)(3) of the IRS Code. The Department does not dispute this fact.

In the Department's first charge, the Department does not contest that the institutions are *owned* by a nonprofit corporation; rather, the Department's determination is that the Colleges former owner's involvement with CEHE somehow means that the institutions are not *"operated"* by a nonprofit corporation.

b. Operated by a Nonprofit Corporation

There is nothing in the definition for a nonprofit institution in 34 C.F.R. §600.2 that defines, restricts, or prohibits, an institution's previous owner from being involved following a change of ownership or control. The Department states that,

> "*CEHE's acquisition of the colleges did not present the traditional situation where an institution is acquired by a new owner and the former owner no longer plays a role in the continued operation of the institution.*" (emphasis added)

The Department claims that the subject transaction is not a "traditional" conversion transaction because the former owner continues to maintain a role in the nonprofit corporation. TO the contrary, CEHE's transaction is in fact more traditional than the one described by the Department in its Decision.

These types of conversions have been taking place for decades. The Department itself has reviewed and approved similar conversions as part of change of ownership applications where the colleges' previous owner remained involved following the transaction. *See* the Department's approval of nonprofit conversions involving Ultimate Medical Academy (2015), Keiser University (2011), and Remington College (2011).

The use of the word "traditional" in this context is nothing more than sleight of hand for arbitrarily denying CEHE's change of status without, and in spite of, controlling state law and the Internal Revenue Code. Furthermore, the Department's implied determination that a former owner being involved with the nonprofit organization following a change to nonprofit is somehow wrong, bad, or not "traditional" is baseless.

Over 40 years ago, the IRS published two revenue rulings, Revenue Ruling 76-91, 1976-1 C.B.

150[12], and Revenue Ruling 76-441, 1976-2 C.B. 147[13]. In Revenue Ruling 76-91, the owners of a for-profit hospital formed a new nonprofit corporation to purchase and operate the hospital. "Over one-half of the board of directors of [the nonprofit corporation purchasing the hospital] consists of the stockholders [of the selling for profit hospital]." The IRS still ruled, that despite such control, the nonprofit corporation qualified for tax-exempt status under section 501(c)(3) of the Internal revenue Code.

Similarly, in Revenue Ruling 76-441, Situation 1, the successor nonprofit corporation purchased a for-profit school's personal property and leased the land and buildings from the former owners of the for-profit school. The former owners of the school were then employed by the nonprofit school. Again, the IRS ruled that the nonprofit corporation qualified for tax-exempt status despite the real property lease and post-sale employment relationship. These two published revenue rulings dispel the notion that a former owner must have no involvement with the nonprofit corporate buyer following a conversion of status transaction regardless of its form.

The Department's position that the former owner's alleged control over CEHE, whether due to his status as a substantial contributor or due to his Trust's status as a CEHE lender or both, is simply incorrect as evidenced by the Internal Revenue Service's pronouncements. There are more than 70,000 nonprofit organizations in the United States today and the majority of them have been founded and funded by a single donor or family. Their nonprofit status under federal (Internal Revenue Code) or state (Indiana) law is not altered or precluded solely by reason of the fact that a donor and his/her family retain control - even if that control is perpetual.

The fact that CEHE is a public charity for tax purposes does not alter that conclusion. The IRS has explicitly addressed the question of the relationship of control to eligibility for tax exemption, and the Department cannot deny controlling IRS precedent that requires approval of CEHE's applications. More significantly, as indicated above, the Department itself has previously approved changes of ownership (as recently as last year) involving a conversion from for-profit to nonprofit status with circumstances similar to CEHE's.

In this Decision, the Department is acting arbitrarily in ignoring its previous record of following well-established IRS precedent. For example, in Revenue Ruling 66-219, 1966-2 C.B. 208[14], the IRS ruled that an organization would not be precluded from establishing its section 501(c)(3)

[12] See Exhibit 11 – Revenue Ruling 76-91
[13] See Exhibit 12 - Revenue Ruling 76-441
[14] See Exhibit 13 – Revenue Ruling 66-219

status "merely because the creator of the organization (if a trust) is either the sole or controlling trustee or merely because the organization is controlled by one individual." Similarly, in General Counsel Memorandum 33647 (Oct. 9, 1967), the IRS Office of Chief Counsel concluded that control of a section 510(c)(3) organization by a founder's family, even when control is assured into the foreseeable future, would not preclude section 501(c)(3) exemption.

c. No Part of CEHE's Net Earnings Benefit a Private Individual

The Department's second charge is that CEHE's institutions do not conform to required definitional elements in 34 C.F.R. §600.2 because the net earnings benefit a private individual when CEHE makes debt payments to the Trust, and lease payments to entities owned by the Colleges' former owner.

The Department's three-part definition for a nonprofit institution implements the definition of a nonprofit found in the Higher Education Act ("HEA"). 20 U.S.C. §1003 defines a nonprofit institution as:

> *"a school…or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual."*

The private inurement prohibition contained in the HEA's definition of a nonprofit is essentially the same language included in the definition of a nonprofit included in Section 501(c)(3) of the Internal Revenue Code:

> *Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.*

Indeed, before the HEA was adopted in 1965, the IRS had developed an interpretation of private inurement under Section 501(c)(3) of the Internal Revenue Code. Congress intended this established meaning of private inurement prohibition to control in the HEA. Rather than state that the nonprofit had to be a 501(c)(3) tax exempt entity in 20 U.S.C. § 1003, Congress imposed the requirement that a nonprofit organization be able to satisfy requirements of 501(c)(3) by tracking the particular language of private benefit in 501(c)(3).

When the HEA was enacted, federal courts had interpreted the private inurement prohibition of 501(c)(3) to permit tax exempt nonprofit corporations to borrow money from an insider to purchase assets at fair market value and to repay the debt with revenue from the tax exempt operations. Comm'r v. Johnson, 267 F. 2d 382 (1st Cir. 1959) ("Transactional Exemption").

Federal courts have clarified that this Transactional Exemption applies to any transaction negotiated at arm's length with a person having no prior relationship with the exempt entity, regardless of the relative bargaining strength of the parties or the *resultant* control that the contract gives a party over the exempt entity. Cancer Council, Inc. v. Comr., 165 F. 3d 1173 (7th Cir. 1999). The IRS formally adopted this position in Treasury Regulation 53.4958. The regulations pertain to the receipt of private benefits or inurement from a tax exempt entity, including a nonprofit corporation having tax exempt status under 501(c)(3).

Treasury Regulation 53.4958-4 provides that the private inurement prohibition of 501(3) does not apply to fixed payments made pursuant to an initial contract, even if such payment would otherwise constitute an excess benefit transaction. See Treasury Regulation 53.4958-4(a)(3)(i) and (vii). An initial contract is defined as a binding written contract between an organization and an individual who was not an insider immediately prior to entering into the contract. See Treasury Regulation 53.4958-4(a)(3)(iii). And a fixed payment means an amount of cash or other property specified in an initial contract or determined by a fixed formula specified in the contract that is paid or transferred in exchange for the provision of specified services or property. See Treasury Regulation 53.4958-4(a)(3)(ii)(A). Regulations provide that a fixed formula may incorporate an amount that depends on future specified events or contingencies (e.g., revenues generated by activities of the organization) if no person exercises discretion when calculating the payment amount or whether payment is made. These regulations permit the use of a cash-flow based formula to determine the amount and timing of payments.

Prior to CEHE's Decision, the Department has consistently interpreted 34 C.F.R. § 600.2 in accordance with the IRS's interpretation of private inurement when ruling on change in

ownership or control applications following an institution's conversion to nonprofit status. For the Department, in CEHE Decision, to now conclude that debt service and lease payments are net earnings benefiting a private individual is contrary to IRS rulings. This conclusion by the Department also ignores the manner in which debt (loan and lease payments) is classified on balance sheets and income statements pursuant to Generally Accepted Accounting Standards ("GAAP") and Financial Accounting Standards Board ("FASB") standards.

Virtually every nonprofit college in the U.S. has debt and incurs lease expenses. Columbia University, the alma mater of U.S. Secretary of Education John King, had $1.28 billion dollars of debt at the end of 2012[15]. Stanford University, the alma mater of Under Secretary Ted Mitchell, had $1.5 billion dollars of debt at the end of 2013[16]. Is it the Department's position that these institutions, like CEHE, fail the definition in 34 C.F.R. §600.2 because part of their tuition revenue is paid to individuals or entities who hold the debt? In CEHE's Decision, the Department, for the first time, takes the position that an institution fails to meet the definition of a nonprofit institution in 34 C.F.R. §600.2 if the institution uses part of its revenue to pay debt held by private individuals or trusts. If consistently and fairly applied, the Department's position (in CEHE's Decision) would mean that every nonprofit institution in the United Sates that has debt service and/or rent payments *fails* to meet the definitional element in 34 C.F.R. §600.2. Such a position by the Department is untenable.

The Department cannot discriminate and selectively interpret its regulations differently for CEHE's Colleges, or indeed, any one institution or group of institutions. Whether an institution's debt is held by one or more individuals is irrelevant. Whether an institution makes rent payments to one or more individuals is also irrelevant. The Department has, for decades, consistently and routinely (by its actions and approvals) established that a nonprofit institution's payment of debt service or rent to one or more private individuals does not violate the definitional element prohibiting the payment of net earnings benefits to private individuals. The Department must reconsider its determination in CEHE's case and equally apply the interpretation of the definitional elements it has applied to other nonprofit institutions.

The Department goes on to claim that:

> "*In the acquisition here, the Transaction was structured so that the Trust retained the benefit of a continued stream of title IV revenues…*"

[15] See Exhibit 14 – Columbia University Debt as of 2012
[16] See Exhibit 15 – Stanford University Debt as of 2013

This is an extreme mischaracterization of what actually occurred and the Department uses this statement as the foundation for a refusal to recognize CEHE's status as a bona fide nonprofit corporation under Indiana law and Title IV regulations. **The Trust is and was nothing more than a lender.**

The Trust has retained no right, title or interest in any particular stream of revenue and is indeed prohibited from doing so under both Indiana law and section 501(c)(3) of the Internal Revenue Code. The Trust is nothing more than a creditor of CEHE - just as a commercial lender would be if CEHE had obtained commercial financing. It is significant that the Decision references no state or federal law (including the Internal Revenue Code) under which indebtedness incurred by CEHE to the Trust is anything other than a bona fide indebtedness for all purposes (including the Department's consideration of the change of ownership applications). To conclude otherwise, without any factual or legal support, is arbitrary and capricious.

The Department's conclusion that provisions in CEHE's debt, requiring mandatory prepayments of principal in amounts equal to the Excess Cash Flow, are distribution of profits to the Trust is not supported by either commercial lending norms or the facts of the transaction. As the Department is aware, the debt is required, by applicable law, to be on market terms. Many banks and other financial institutions reduce the risk of nonpayment by requiring the borrowers to repay loans to the extent of available funds. The definition of "Excess Cash Flow" in CEHE's notes is almost identical to the definition of this term in the loan documents of major financial institutions.

In reality, this construct for repayment of the notes was designed to mitigate any risk that CEHE might default on the notes. The Colleges' institutional accreditor, ACCSC, strongly expressed concern as to whether CEHE would be able to pay its debt to the Trust. To address this concern, and insure financial viability of the Colleges after closing, the parties determined it was in the best interest of the Colleges (as opposed to the Colleges' former owner) not to have a fixed schedule for the repayment of the principal. Instead, CEHE was required to pay its debt when it had available cash after satisfying all operational and capital expenditure needs. Cash is not the same as profits. Once the debt is paid in full (or refinanced with a different lender) CEHE will have no obligation to the Trust. In summary, the mandatory prepayment of principal of an arms' length loan is not the legal or functional equivalent of a stream of income to benefit the Trust.

The Department further asserts that negative covenants in the notes are evidence of the Trust's control of the Colleges. On the contrary, these covenants show that the obligations and debt are

not, in any way, a sharing of profits. Negative covenants are customary in commercial lending and the negative covenants in CEHE's notes are much less restrictive than typically found in notes with a major financial institution. CEHE's negative covenants reflect market norms that were required to be reflected in the transaction. The negative covenants are not, in any way, indicia of the Trust having control of CEHE and the Colleges.

Finally, for almost two years, the IRS has conducted audits of this transaction. The IRS has audited the transaction itself and CEHE's Form 990 tax return. While the audits are just now being completed, the IRS has not concluded that the former owner, as a sole member, cannot continue to be involved with the surviving nonprofit organization. Furthermore, the IRS has never alleged or concluded that there is any inappropriate benefit or inurement flowing to the Colleges' former owner or to the Trust. The IRS has obviously done the arithmetic (which the Department should have done) on this transaction, which shows that the CEHE merger has actually ***cost*** the Colleges' former owner approximately $77 million dollars[17]. From a financial perspective, the merger with CEHE was the least beneficial transaction that the Colleges' former owner ever entered into.

With respect to leases and lease expense - it is true that the Colleges, at the time of the transaction, had some exiting lease obligations in properties owned by entities controlled by the Colleges' former owner. However, as stated above, CEHE's payment of rent expense cannot be considered a stream of "net earnings" flowing to a private individual. Moreover, in 2015, the CEHE Board of Directors asked the Colleges' former owner to divest the real estate where the Colleges had leases. This request was solely due to the fuss critics had been raising about CEHE's Colleges leasing space in buildings owned by the Colleges' former owner. The former owner agreed to do so. However, before doing so, the CEO and Board of CEHE wanted to lock in long-term leases at favorable rates. Mr. Eric Juhlin, CEHE's CEO, was authorized to negotiate on the behalf of the CEHE Board of Directors and did so in a professional and independent manner, negotiating long-term leases that included reductions in rent and significant periods of rent abatement. The former owner did not participate in the negotiations, but rather hired an independent attorney and an independent real estate broker to conduct arms-length negotiations with Mr. Juhlin.[18]

Congress was aware that colleges were converting to nonprofits using seller financing. They

[17] See Exhibit 16 – Accounting of Transaction for Carl Barney
[18] All of the information and evidence of independent re-negotiations of the Colleges' leases was provided to the Department in CEHE's responses to the Department's March and June 2016 document requests.

were also aware of the politically-based claims that some of the transactions were being pursued solely to evade regulation, and that proponents were asking the Department to stop approving them. In addition to the public attack waged by Mr. Shireman and the letter from the United States Senators to Secretary Duncan, the Senate Committee on Health, Education, Labor and Pensions' report on for profit higher education published by the committee in July 2012 criticized these transactions as being intended to evade regulation. The HEA has been amended numerous times since these allegations were made, and Congress has taken no action to amend 20 U.S.C. § 1003. Accordingly, the Department cannot arbitrarily impose an alternative interpretation to deny CEHE's application.

V. CEHE Board Actions Prior to the Transaction

The Department alleges that the CEHE board (pre-transaction) failed to properly evaluate the transaction and that the sole purpose of the transaction was to benefit the Trust and not to further the philanthropic mission of CEHE. The Department's conclusion is riddled with factual errors and is based on a fundamental misunderstanding of the nature of the transaction, the purpose of the transaction, and the due diligence conducted by CEHE. In fact, CEHE's board acted to insure that the transaction would further the philanthropic mission of CEHE and not redound to the benefit of the Colleges' former owner.

The Department's characterizations of the facts are fundamentally incorrect on critical elements of the transaction—indeed, so much so that those errors alone provide sufficient grounds for the Department to reverse its conclusion. For example, the Department states:

> *"The Transaction was approved by CEHE's Board... at a Board meeting on December 27, 2012. Although the minutes of that meeting recited that the decision was based on 'substantial due diligence,' there is no evidence that CEHE—as opposed to Mr. Barney—conducted any valuation of the Colleges before entering into the Merger Agreement."*

The Department further asserts:

> *"Indeed, despite the statement of 'substantial' due diligence in the CEHE Board Minutes, the Merger Agreements state that CEHE performed 'limited due diligence review.'"*

These conclusions rest on fundamental errors, misunderstandings, and misrepresentations of the transactions. Consider first the statement that *"…there is no evidence that CEHE—as opposed to Mr. Barney—conducted any valuation of the Colleges before entering into the Merger Agreements."* This statement is simply incorrect. As recited in the attached affidavit of Jay Mercer[19], counsel for CEHE at the time of the transaction, and Fredric Fransen[20], President of CEHE at that time, an overriding concern of the CEHE board at the time of the transaction was to ensure that the transaction would not provide any excess benefit to the Colleges' former owner.

The CEHE board did not simply accept the valuation conducted by Barrington. Instead, the CEHE board demanded an independent evaluation of Barrington's appraisal. The board retained Blue & Co. of Indianapolis, Indiana, an experienced and leading consulting company in this space, to conduct an independent review and analysis of Barrington's appraisal. Blue and Co.'s report is attached[21]. Blue & Co. presented its findings to CEHE's entire board in a conference call and it was separately reviewed by counsel for CEHE. Contrary to the Department's claim, the Blue & Company report was conducted expressly "for purposes of the CEHE Board's due diligence." Thus, the Department's claim that CEHE's board failed to conduct an independent analysis of the company's value and review of Barrington's appraisal is completely incorrect.

As Attorney Mercer's affidavit makes clear, the Department has misrepresented Mercer's characterization of the due diligence conducted by Mercer and the CEHE board when it contends that *"the Merger Agreements state that CEHE performed 'limited due diligence review."* The Department has construed Mercer's statement to be exactly the opposite of what it says. Mercer clearly states, *"I have been requested to provide the Board with an outline of the minimum due diligence that I would recommend"* and then lists multiple and extensive steps that the board should take in order to satisfy its minimum duties of due diligence.

Although it is difficult to understand how the Department misunderstood this clear language, it seems necessary to explain this further: Mercer was not characterizing CEHE's board as having performed a "limited due diligence" review; he was explaining what the minimum level of due diligence would be for CEHE's board to satisfy its duties with respect to the transaction.

The Department claims that the CEHE board failed in its duty to conduct due diligence with

[19] See Exhibit 17 – Affidavit of Jay Mercer
[20] See Exhibit 18 – Statement of Fred Fransen
[21] See Exhibit 19 - Blue & Co's Report

respect to the transaction. Not true. First, as indicated above, the board retained attorney Jay Mercer, a distinguished attorney with extensive experience in corporate law, nonprofits, and transactions of this type. Mercer reports that over the 6-month period during which the transaction was reviewed, Mercer devoted approximately 150 hours to ensuring that the CEHE board complied with all due diligence requirements, including participating in a 2 ½ hour conference call regarding the valuation presentation. The Department now raises precisely the same issues that Mercer identified as the heart of CEHE's due diligence deliberations.

At the board's meeting with Mercer on August 27, 2012, Mercer "explained to the directors their fiduciary duties, responsibilities and liabilities involved in the proposed transaction with the Colleges." Moreover, he "stressed the need for a fair market value to guard against the possibility of an excess benefit transaction" and "also discussed the due diligence needed to approve the transaction." Over that same 6-month period, the CEHE board met numerous times by conference call with and without counsel present to discuss the transaction. As Mercer details, he provided a comprehensive due diligence checklist for the board to follow to ensure that the board complied with the letter and the spirit of its nonprofit mission.

Given the extensive effort, care, and time spent by CEHE and its counsel over the 6-month period culminating in the closing of the transaction, it defies belief that the Department could conclude that the board failed to perform adequate due diligence; or that its due diligence could be characterized as "limited." The only concrete assertion made by the Department to support its conclusion—that the board failed to conduct independent analysis of the Barrington appraisal—is clearly not true.

The Department's assertion that CEHE's purpose in conducting this transaction was to benefit the Colleges' former owner misconstrues the transaction, CEHE's purpose in entering into the transaction, and smears the integrity and competence of CEHE's board without any evidence to support it. The Department provides basis for why CEHE or its board would have had any reason or desire to enrich or otherwise benefit the Colleges' former owner. None of the members of the board had ever even met the Colleges' former owner prior to the merger opportunity. The Department identifies no motive for why the CEHE board would have had the slightest interest in enriching or otherwise benefiting the Colleges' former owner.

As detailed in Fred Fransen's statement, the sole motivation for the board was its belief that entering into this merger would be the most effective way to advance CEHE's philanthropic mission. There is not a single shred of evidence to support the Department's bizarre theory that

the CEHE board had any desire or motive to benefit the Colleges' former owner individually as opposed to advancing CEHE's philanthropic mission.

The Department's failure to identify any motive for the CEHE board to enter the transaction with the intent of benefiting the Colleges' former owner, eliminates any support for the Department's inference that the CEHE board was complicit in an alleged scheme of the Colleges' former owner's self-enrichment.

According to Mr. Fransen's statement, CEHE functioned as an independent nonprofit organization since 2006. Following a change of financial supporters, in the wake of the 2008 financial crisis, the board was reconstituted to add the members who were serving at the time of the transaction with the Colleges. All three of CEHE's pre-transaction board members have long histories in the nonprofit sector as university professors and employees of nonprofit organizations. CEHE had a multi-year operation record as an independent nonprofit organization pursuing its specific mission and operating independently of any third-parties. As with the Department's failure to provide evidence that CEHE had any motivation to benefit the Colleges' former owner, the Department also fails to evidence its theory that the Colleges' former owner controlled CEHE (an organization with which the Colleges' former owner had no preexisting relationship) sufficiently to carry out an alleged scheme or to induce or overbear the CEHE board into entering into the merger. Certainly there is nothing in the record to support this fanciful conclusion.

According to Mr. Fransen, if the former owner's intent was anything other than advancing the philanthropic mission of CEHE, *"there would have been no purpose for CEHE to engage in the transaction."* The members of CEHE's board had no pre-existing relationship with the Colleges' former owner and, as records previously provided to the Department show[22], did not gain materially from the transaction.

The Department has fundamentally misunderstood and mischaracterized the merger transaction between CEHE and the Colleges. The Department's characterization of the transaction as a scheme by "shills" on the CEHE board to enrich the Colleges' former owner is laughable. The record unequivocally demonstrates that CEHE was an independent organization at the time of the merger; the merger was conducted to advance CEHE's philanthropic mission; it was done with extensive due diligence with the advice of experienced legal counsel; and the Department

[22] See documents CEHE provided in response to Department requests from March and June 2016

has identified no motive or theory as to how the Colleges' former owner could have persuaded the independent CEHE board of substantial academics to participate in an alleged scheme of self-enrichment.

The Department's conclusions amount to unsupported nonsense. Given the failure of the Department to accurately recognize the due diligence conducted by the CEHE board, particularly the blatant misstatement that the board did not conduct its own due diligence with respect to valuation, the Department should reconsider its Decision.

VI. Request for Reconsideration

The facts, evidence, and precedent overwhelmingly demonstrate that the Department's Decision that CEHE's Colleges fail to meet the Department's regulatory definition for nonprofit is incorrect and politically driven. CEHE therefore requests the Department to reverse its Decision and issue standard, non-provisional, Program Participation Agreements to CEHE's Colleges recognizing their true status as nonprofit institutions. CEHE's Colleges are entitled to receive non-provisional participation agreements because the Colleges have already completed 3½ years of compliant operation under provisional participation agreements when the customary timeframe is two years.

Sincerely,

Eric S. Juhlin
Chief Executive Officer

CC: Steve Gombos, Ritzert & Leyton
Dr. Michale McComis, ACCSC
CEHE Board of Directors

Appendix 1

Inaccuracies and Misrepresentations in the Department's August 11, 2016 Decision (the "Decision")

1. The Decision incorrectly states that, *"This application results from a transaction that occurred as of December 27, 2012…"* (page 1, paragraph 1). The transaction actually occurred on December 31, 2012.
2. The Decision incorrectly states that, "*Each of the above named schools ("the Colleges") submitted an electronic application ("eapp") for Change in Ownership by November 7, 2012 (California College of San Diego submitted their eapp on October 22, 2012)*" (page 1, paragraph 1). The Colleges did not submit applications on the dates specified. The Colleges submitted pre-acquisition review applications in the fall of 2012. The actual change of ownership applications were submitted in January 2013.
3. The Decision incorrectly states that, "*Temporary Provisional Program Participation Agreements were effective as of January 1, 2013, and extended for an initial one month period until January 3 1, 2013*" (page 1, paragraph 1). The Temporary Program Participation Agreements were effective as of January 31, 2013 and have been extended on a month-to-month to basis through August 31, 2016.
4. The Decision incorrectly states that CEHE submitted, *"… an [application] for a change of ownership or structure for the above-named schools*" (page 1, paragraph 1). CEHE never submitted an application for change of structure. Additionally, in other correspondences, the Department claims that CEHE submitted an application for a "change of status for its colleges". CEHE has never submitted an application for a change of status.

   The Department is committing a fallacy of ambiguity by using a double meaning or ambiguity of language to mislead or misrepresent the truth. CEHE ***never*** submitted an application for a change of structure or change of status. The Department has no such applications for colleges. The Department recognizes this when it states near the end of its Decision, *"The Department does not take a position with respect to CEHE's non-profit 501(c)(3) status with the Internal Revenue Service*" (page 10, paragraph 5). The IRS is the only federal entity charged with determining a corporation's tax status.

   The only application CEHE submitted was for the Department to decide whether or not it would issue new Program Participation Agreements to CEHE following CEHE becoming the sole owner and operator of the colleges. CEHE's status as a

non-profit corporation and CEHE's sole ownership of the colleges is undisputed by the Department.

The Department, later in its Decision, acknowledges exactly what authority it has, "*The Department regulations identify certain covered transactions for an institution that constitute a change of ownership that require the institution to apply and obtain approval from the Department to continue participating in the Title IV, HEA program"* (page 2, paragraph 4).

5. The Decision incorrectly states that, *"The Colleges have petitioned the Department to recognize their conversion to nonprofit status for the purposes of administration and oversight of their participation in Title IV student financial assistance programs,"* (page 2, paragraph 1). CEHE sent no such petition and has not petitioned the Department for any such recognition. Again, it is undisputed that CEHE is a qualified nonprofit corporation and CEHE is the sole owner of the Colleges.

6. The Decision incorrectly states that this decision is in response to, *"…CEHE's requested approvals for the change of ownership and change to nonprofit status*" (page 2, paragraph 3). The only application or request that CEHE submitted was for the Department to decide whether or not it would issue new Program Participation Agreements to CEHE following CEHE becoming the sole owner and operator of the colleges. CEHE never requested or submitted an application for the Department to approve a change of status. CEHE's status as a non-profit corporation and CEHE's sole ownership of the colleges is undisputed by the Department.

7. The Decision incorrectly states that, *"… CEHE's requested approvals for the change of ownership and change to nonprofit status."* (page 2, paragraph 3). CEHE never requested approval for a change to nonprofit.

8. The Decision incorrectly states that, *"Because the colleges have applied to be considered nonprofit institutions…"* (page 3, paragraph 1). This is false, the Colleges did not apply to be considered nonprofit, the Colleges applied to have CEHE as the new owner and operator of the Colleges.

9. The Decision incorrectly states that, *"… the Trust retained the benefit of a continued stream of Title IV revenues…."* (page 3, paragraph 3). The Trust has no claims, title, or retention of any stream of revenues from CEHE.

10. The Decision incorrectly states that, *"… Mr. Barney obtained significant control*

of CEHE and by extension, retained control of the colleges." (page 3, paragraph 3). Mr. Barney did not "obtain" significant control; he was duly and legally appointed as a member of the corporation pursuant with CEHE's bylaws.

11. The Decision incorrectly states that, "*The Barrington evaluation was commissioned by Mr. Barney for use by the company…"* (page 5, paragraph 1). The Barrington valuation was commissioned, and paid for, by the Colleges.

12. The Decision incorrectly implies that restrictions or covenants in loan agreements are improper, *"… Mr. Barney indeed placed restrictions on CEHE: by negative covenants set forth in the NPA and a subsequent Contingent Note Agreement."* (page 5, paragraph 3). Virtually every business loan or transaction loan contains covenants and restrictions on the borrower. This is common practice and in no way illegal, wrong, or a violation of any regulation.

13. The Decision incorrectly implies that loan terms, restrictions, or covenants in the loan agreement or loan terms are improper, *"Significantly, the notes also require quarterly mandatory prepayments of the greater of 75% of the excess cash flow of CEHE, or 10% of CEHE's total revenues."* (page 6, paragraph 1). Virtually every business loan or transaction loan contains covenants, restrictions, and specific performance terms for the borrower. This is common practice and in no way illegal, wrong, or a violation of any regulation.

Appendix 2

Miscellaneous Conclusions in the Decision

The Department states:

> *"The Department concludes [from a November 2015 statement] that if CEHE had decided to proceed with the Transaction knowing about the "material" information, there would have been a substantial adjustment to the financial terms of the transaction"*

This event has no relevance whatsoever to the Department's review of a transaction that occurred almost three years before this event. This conclusion relies upon an after-the-fact supposition regarding the purchase price adjustment. The purchase price (and purchase price adjustment) had no bearing upon CEHE's eligibility as a nonprofit institution of higher education. This issue is outside the purview of the three-part test used by the Department in its Decision.

The basis for a purchase price adjustment could not have been known by either party at the time the transaction closed. The Colleges and their management could not have predicted that a qui tam suit existed or would be filed; nor could the Colleges and their management predict that an overly aggressive assistant state Attorney General would bring meritless claims. The Department well knows there is an epidemic of such suits against colleges of any size. CEHE is aggressively defended itself and the organization denies there is any basis for such claims.

There is no proof that the Colleges breached any representations or warranties. These actions and efforts to impugn the reputation of the Colleges and its former owner have damaged CEHE's business operations, and caused a decline in revenue. Out of necessity, due to the Department's heavy-handed demand for an unreasonable letter of credit while threatening to force the Colleges to close, the Colleges had no alternative but to seek from its lender an adjustment to the purchase price and notes to save the institutions.

Contrary to the assertion that the Colleges' former owner acted improperly, these undisputed events confirm the opposite. CEHE certainly acted in its Colleges' best interests - and not to benefit the Colleges' former owner in this regard. Due to the demand for a letter of credit, the parties could not wait for a determination as to whether the Colleges' warranties and representations had been breached through the court system. The settlement allowed the parties

to resolve the matter and meet the composite score regulations. Notwithstanding the fact the Colleges now satisfy the financial responsibility composite score, the Department has refused to release CEHE's $43 million dollars of escrow funds being held by the Department.

The Department knows the political environment and economics for career colleges changed dramatically from 2012 to 2015. The problem arose from the coordinated campaign and systemic attacks against private career colleges. For the Department to claim that either CEHE, or the Colleges' former owner, could have foreseen or should have foreseen such hostility two to three years in the future is not credible.

> *"Payments to the Trust under the Notes are essentially based on the excess of revenues over expenses - - the same way as net income in a for-profit entity"*

No, it is not the same! The Department's interpretation runs counter to accounting practices established by GAAP and FASB. Every college in the United States that has debt must use excess revenue over expenses to service their debt. This is true for Columbia University, Stanford University, and CEHE's Colleges. The Department cannot conclude that servicing debt with excess revenues over expenses causes CEHE's Colleges to fail the definition of a nonprofit institution without simultaneously concluding that all existing nonprofit colleges that service debt also fail the definition. Selective interpretation and varying application of existing regulations is arbitrary, capricious, and inappropriate for a federal regulatory agency charged with fair application of its regulations.

> *"CEHE did not notify the Department of this significant debt restructuring with the Trust even though the CEHE's application for the change of ownership for the original transaction was still under review"*

CEHE did notify the Department. CEHE provided a copy of its fiscal year 2015 audited financial statements to the Department (including a copy directly to Mr. Parrott who signed the Decision) on March 31, 2016[1]. Note 7 in CEHE's 2015 audited financial report clearly details and describes the debt restructuring.

> *"In either case, the significant reduction [in CEHE's debt to the Trust] suggests that the initial consideration of $431,000,000 (and the corresponding indebtedness) was*

[1] See Exhibit 20 – Submission of CEHE 2015 Audited Financials to DOE

> *highly inflated"*

No, it was not. The Department presents no evidence, basis, or support for this proffered conclusion. Two separate valuations of the Colleges were conducted; they established the value as of the date of the transaction. The Department cannot take events that occurred almost three years after the transaction closed and present those events as evidence that an aspect of the transaction was inappropriate. To do so is illogical.

> *"The Department has determined that the payments under the Term, Contingent, and Related Contingent Notes, which are and were contingent on CEHE "making money", are essentially profit distributions to the Trust – substantially the same as it received when it was the sole shareholder of the Companies."*

The Department does not have the authority, the right, or the expertise to make this determination. The Department is not the IRS, they are not the promulgators of Generally Accepted Accounting Principles, and they are not the Financial Accounting Standards Board. The IRS auditors have certainly not made this interpretation. CEHE's debt payments are not, under any definition, profit distributions. Every organization in the United States that services debt must do so with funds available after the organization has satisfied all other operational expenses. If an organization does not generate more money than it needs to cover its operational expenses, it cannot service debt. Given the arms-length transaction and market terms for CEHE's debt, the fact that the debt is to the Colleges' former owner is irrelevant. If CEHE had debt to another entity, it would still have to service that debt with excess revenue over expenses. This position by the Department runs counter to well established laws, rules, GAAP, and FASB decisions. The Department cannot disregard, or ignore the truth that debt service is not distributions of profit.

> *"As an element of further benefit to Mr. Barney in the form of enhanced value to the properties, Mr. Juhlin renegotiated most of the College leases to extend the terms until 2025 or 2026."*

The Department's statement is void of any proof, evidence, or support for this allegation. CEHE's Colleges received substantial benefits by renegotiating its leases. Colleges are not short-term businesses or operations, and stability of location and presence is of extreme importance and value to higher education institutions. The Department has extensive records of college transactions and if were to review those records it would see that institutions that have

long-term leases in place actually command a higher valuation in the marketplace.

CEHE provided the Department with copies of all re-negotiated lease amendments. If the Department would review those amendments it will see that in virtually every instance, the Colleges negotiated a significantly lower rental rate (from what the Colleges were currently paying) and received 3-6 months of rental abatements.

EXHIBIT 1

From: U.S. Department of Education <OPA@ed.gov>
Sent: Thursday, August 11, 2016 10:32 AM
To: U.S. Department of Education
Subject: EMBARGOED: Department Denies Request for Chain of For-Profit Colleges to Convert to Non-Profit Status

EMBARGOED UNTIL 11 A.M. ET ON THURSDAY, AUG. 11, 2016.

U.S. Department of Education
Office of Communications & Outreach, Press Office
400 Maryland Ave., S.W.
Washington, D.C. 20202

FOR IMMEDIATE RELEASE:
Aug. 11, 2016

CONTACT:
Press Office, (202) 401-1576 or press@ed.gov

Department Denies Request for Chain of For-Profit Colleges to Convert to Non-Profit Status

Center for Excellence in Higher Education campuses must continue to be accountable to taxpayers, students through federal regulations

The U.S. Department of Education today denied a request from the Center for Excellence in Higher Education (CEHE), a Utah-based chain of for-profit career colleges, to convert to non-profit status for purposes of federal financial student aid. The denial means that the colleges' programs must continue to meet requirements under the federal Gainful Employment regulations[ed.gov].

"This should send a clear message to anyone who thinks converting to non-profit status is a way to avoid oversight while hanging onto the financial benefits: Don't waste your time," said U.S. Education Secretary John B. King Jr.

This denial does not directly affect the approximately 12,000 students who attend the four institutions owned by CEHE - Stevens-Henager[stevenshenager.edu] in Utah and Idaho, CollegeAmerica Denver[collegeamerica.edu], CollegeAmerica Arizona[collegeamerica.edu], California College San Diego[cc-sd.edu] and CollegeAmerica Services[collegeamerica.edu] - but it does mean that the Department will continue to limit the colleges to getting no more than 90 percent their revenue from Title IV federal student aid. It also means that the institutions must meet all federal regulations for for-profit colleges.

CEHE first applied for non-profit status with the Department in the fall of 2012. In reviewing that request, the Department determined that CEHE, which had been a small educational non-profit that did not provide educational services, acquired four for-profit college companies

owned by the Carl Barney Living Trust. CEHE promised to pay the Trust more than $400 million dollars, and the colleges were merged into CEHE. When that happened, Mr. Barney became the board chairman of CEHE, and because of the way the transaction was structured, retained significant control of the colleges, despite the change in ownership to CEHE.

While CEHE is recognized by the Internal Revenue Service as a non-profit company, the colleges' tuition revenue continues to flow to Mr. Barney through the Trust to pay off the debt that CEHE owes from acquiring the colleges, and through the rent that some of Mr. Barney's other companies receive as landlords for several of the college campuses. Under 34 C.F.R. § 600.2 of the Higher Education Act[www2.ed.gov] regulations, non-profit institutions must be owned and operated by a non-profit where no part of the net earnings benefit any private shareholder or individual.

"Schools that want to convert to non-profit status need to benefit the public," said U.S. Under Secretary of Education Ted Mitchell. "If the primary beneficiary of the conversion is the owner of the for-profit school, that doesn't meet the bar. It's not even close."

Since 2012, the four institutions have continued participating in the Title IV financial aid programs on month-to-month agreements as for-profit institutions. In a letter to the company's CEO, Eric Juhlin, the Department approved the change in ownership that CEHE requested but continues to recognize Mr. Barney as maintaining significant control of the institutions and the Title IV revenue they produce.

During the review of the change in ownership request, the Department requested additional documentation from CEHE. The company provided information to the Department but marked much of it as confidential, and that information has been removed from copies of the letter made available for public review. Documents subject to CEHE's confidentiality designation would have to be requested for public review under the Freedom of Information Act.

During the time the applications were under review, risk factors identified in CEHE's financial statements - including a lawsuit against one of the institutions filed by the Colorado Attorney General - led the Department to require CEHE to provide a $42.9 million surety, which is 30 percent of the annual federal student aid funding for 2013 for the four institutions. That surety remains in place but is subject to adjustment based on CEHE's financial condition and other risks.

To qualify for federal student aid, the law requires that most for-profit programs and certificate programs at private non-profit and public institutions prepare students for gainful employment in a recognized occupation.

###

EXHIBIT 2

Eric Juhlin

From: Parrott, Douglas <Douglas.Parrott@ed.gov>
Sent: Thursday, August 11, 2016 8:42 AM
To: Eric Juhlin
Subject: Decision on Change of Ownership for Stevens Henager College, OPE 003674, CollegeAmerica Denver, OPE 025943, CollegeAmerica Arizona, OPE 031203, California College San Diego, OPE 021108
Attachments: image2016-08-11-093318.pdf

Mr. Juhlin,

The Department's Decision on Change of Ownership for Stevens Henager College, OPE 003674, CollegeAmerica Denver, OPE 025943, CollegeAmerica Arizona, OPE 031203, California College San Diego, OPE 021108 is attached to this message.

EXHIBIT 3

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September 21, 2015

VIA E-MAIL AND REGULAR MAIL

Ted Mitchell
Under Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

James W. Runcie
Chief Operating Officer, Federal Student Aid
U.S. Department of Education
830 First Street, NE, UCP-3, 112G1
Washington, D.C. 20202

Re: **Center for Excellence in Higher Education ("CEHE")**
OPE IDs: 00367400 – Stevens-Henager College
02594300 - CollegeAmerica Denver
02110800 - California College San Diego
03120300 - CollegeAmerica Flagstaff

Dear Messrs. Mitchell and Runcie:

I am writing to you regarding the April 27, 2015, letter (based on a *New York Times* article) from 19 Members of Congress to the Secretary (attached) requesting that the Department review transactions whereby for-profit colleges converted their institutions to nonprofit organizations. The Center for Excellence in Higher Education (CEHE) transaction was mentioned, and I'm writing on CEHE's behalf to offer assistance and information that may help with your response to the Members and their concerns about CEHE's specific transaction. I also note that the Department has yet to approve the change of ownership associated with this December 31, 2012 transaction.

Initially, and to begin a dialogue, here is the background of the transaction: CEHE, a section 501(c)(3) public charity, was established in 2007 by philanthropists who had donated millions of dollars to U.S. colleges and universities and were concerned about the state of higher education in this country. CEHE's principal purpose, as described in its Application for Exemption as an Organization described in Section 501(c)(3) of the Internal Revenue Code (the

"Code"), was to educate the public about higher education in America and to help donors promote excellence in higher education through philanthropy. Those founders believed that through effective philanthropy, due diligence, proper governance, and management accountability, America's colleges and universities could be transformed into high-performing institutions that prepare today's students to be tomorrow's leaders. See https://www.insidehighered.com/news/2007/09/19/donors

From 2007 until 2012, CEHE operated as a publicly-supported charity. It conducted a series of research programs and supported faculty interested in improving higher education at colleges and universities around the country and internationally. CEHE also engaged in several research projects, acting in the background to help philanthropists who wanted to promote structural reform of higher education more generally.

In 2012, Fred Fransen, the Executive Director of CEHE and a philanthropic advisor, approached Carl Barney and suggested a merger with his colleges (CollegeAmerica, Stevens-Henager College, and California College San Diego) (the "Colleges") with CEHE; if Mr. Barney was interested, Mr. Fransen said he would propose such a merger to the CEHE Board.

The CEHE Board saw this as a beneficial opportunity, as did Mr. Barney. He wanted the Colleges to become nonprofit institutions to better carry out his philanthropic goals and the mission of the Colleges to better serve their student bodies. Mr. Barney also shared much of the same vision for higher education as the founders of CEHE.

On December 31, 2012, CEHE merged with and now operates the Colleges as nonprofit colleges organized and operated exclusively for educational purposes.

The IRS was provided with all relevant documents pertaining to the merger along with its required application for a change in its public charity status; and on July 25, 2014, issued a favorable determination letter acknowledging reclassification of CEHE as an educational institution described in sections 509(a)(1) and 170(b)(1)(A)(ii) of the Code (copy attached). CEHE was and remains compliant with the requirements of section 501(c)(3) of the Code, including the prohibition against private inurement, and the excess benefit transaction rules in section 4958 of the Code.

The merger of the Colleges with an existing and previously unaffiliated nonprofit differs materially from other transactions that have occurred recently and that were referenced in the April 2015 letter from Members of Congress. Other differentiating details include the following:

1. Prior to the transactions, the Board of Directors of CEHE had no relationship whatsoever with Mr. Barney or anyone else at the Colleges. The negotiations for the merger were conducted at arms-length between CEHE and the owner of the Colleges, Mr. Barney.

2. The CEHE Board, as well as its separate counsel, independent accountant, and independent valuation consultant reviewed the form and amount of the consideration proposed to be paid by CEHE for the Colleges as well as the terms and conditions of the merger transactions as a whole.

3. Aided by an independent appraisal, related valuations and other appropriate data and its due diligence, the CEHE Board determined that (a) the merger transaction provided CEHE not only with fair market value, but a "bargain sale"; (b) the transactions, taken as a whole, provided CEHE with a discount reflecting a substantial charitable contribution to CEHE by Mr. Barney of more than $200 million; (c) Mr. Barney took no fees of any kind including management fees; and (d) the leases of land and building by the Colleges from entities related to Mr. Barney were continuing at the same fair market value rates as formerly established.

4. The CEHE transaction resulted in real changes and the Colleges operate as a bona fide public charity:

(a) The members of the historical, independent Board of CEHE remained on the Board after the transactions; no monies were paid to the CEHE Board for the transactions;

(b) CEHE's Colleges have not raised tuition since their conversion to nonprofit, tax-exempt status;

(c) A substantial contribution of over $200 million was made to CEHE;

(d) Mr. Barney has personally contributed accounts receivable valued at approximately $24 million along with an additional cash contribution of $10 million to CEHE;

(e) Since the merger, Mr. Barney personally continued to make substantial charitable donations of about $5 million dollars;

(f) Since the merger, CEHE has issued grants of nearly $7 million dollars to other unaffiliated colleges, universities and charitable organizations;

(g) CEHE provides numerous scholarship programs to assist students with paying for college;

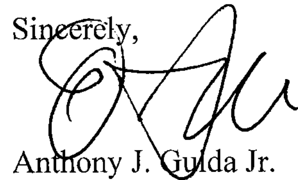
(h) The debt issued by CEHE to finance the transaction was deeply subordinated to ensure that CEHE would remain financially sound and bears interest at a below-market rate of 1%; and

(i) There are no other management contracts, non-compete agreements or any other agreements wherein Mr. Barney or any person related to him profits personally.

Unfounded allegations have been made that the merger was done solely to evade regulations. This is not the case for CEHE or the Colleges. The Colleges continue to be in compliance with the 90:10 rule even though they are no longer bound by it. Further, CEHE recently received favorable determinations in a program review closing all matters that the Department had previously indicated were causes for concern.

I know you will want more detail. I would like to schedule a time when we can discuss how I may help the Department resolve the Members' questions. Kindly let me know when you wish to discuss this.

Sincerely,



Anthony J. Guida Jr.

TJG/njp
Encl.

cc: Mushtaq Gunja, Chief of Staff, Office of the Under Secretary
Robin Minor, Chief Compliance Officer, Program Compliance, USED
Carl Barney, Chairman CEHE
Eric Juhlin, Chief Executive Officer CEHE

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: JUL 25 2014

Center for Excellence in Higher Education
C/O Ofer Lion
Hunton & Williams LLP
550 South Hope St, Suite 2000
Los Angeles, CA 90071

Employer Identification Number:
20-8091013
Person to Contact - ID Number:
E. Zaebst - 0203427
Contact Telephone Number:
877-829-5500 Toll-Free
Form 990 Required:
Yes

Dear Sir or Madam:

In your letter dated February 27, 2013, you requested classification as a public charity described in section 170(b)(1)(A)(ii) of the Internal Revenue Code.

In our letter dated September 2007, we determined that you were exempt under section 501(c)(3) of the Code. We further determined that you weren't a private foundation and you were classified as a public charity described in sections 509(a)(1) and 170(b)(1)(A)(vi).

Based on the information you provided, we determined you meet the requirements for classification as an organization described in sections 509(a)(1) and 170(b)(1)(A)(ii) of the Code.

Accordingly, we have updated your public charity status in our records as you requested.

Since your exempt status wasn't under consideration, you continue to be classified as an organization exempt from federal income tax under section 501(c)(3) of the Code.

Grantors and contributors may generally rely on this determination of your foundation status unless the Internal Revenue Service publishes notice that you are no longer recognized as tax exempt or classified as a public charity in the Internal Revenue Bulletin. However, if a grantor or contributor takes any action, or fails to take any action, which causes you to lose your exempt status or causes you to be reclassified as a private foundation, that party cannot rely on this determination. Furthermore, a contributor or grantor who knows that the Internal Revenue Service has notified you of any change in your exempt status or foundation status cannot rely on this determination.

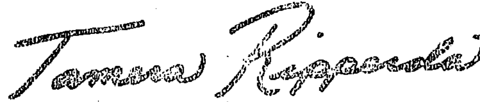
Please see enclosed Publication 4221-PC, *Compliance Guide for 501(c)(3) Public Charities*, for helpful information about your responsibilities as an exempt organization.

Because this letter could help resolve any questions about your exempt status and/or foundation status, you should keep it with your permanent records.

We sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Director, Exempt Organizations

Enclosure:
Publication 4221-PC

EXHIBIT 4

CEHE Institutional Scholarship/Grant[1] Postings[2]					
Campus	**2013 Jan-Dec**	**2014 Jan-Dec**	**2015 Jan-Dec**	**2016 Jan-Jun**	**Total**
Boise	54,720	157,844	279,535	167,078	**756,024**
Cheyenne	1,800	63,507	64,446	37,249	**172,991**
Colorado Springs	114,459	272,181	327,994	90,215	**809,795**
Denver	135,641	202,405	278,345	114,554	**788,472**
Ft. Collins	66,904	66,855	168,964	55,689	**399,636**
Flagstaff	51,102	189,636	151,903	58,831	**498,592**
International	0	3,750	57,750	37,500	**99,000**
Idaho Falls	4,700	65,946	209,554	123,067	**406,268**
Layton	0	1,500	7,820	8,410	**17,730**
Logan	93,312	123,312	160,220	124,328	**619,431**
Nampa	39,354	81,855	248,357	89,769	**491,872**
National City	79,282	154,138	248,694	162,014	**655,128**
Independence Univ.	2,246,334	3,385,612	4,368,002	2,446,178	**12,811,203**
Ogden	105,978	150,325	178,807	114,493	**655,416**
Phoenix	124,867	558,277	785,316	389,911	**1,908,374**
Provo	183,787	275,845	282,281	185,110	**1,205,970**
San Diego	93,962	205,572	449,516	281,087	**1,214,989**
St. George	57,585	136,992	280,404	143,433	**639,494**
Salt Lake	213,650	509,212	761,607	331,863	**1,998,673**
San Marcos	3,000	35,000	249,700	179,039	**466,738**
Total	**3,670,437**	**6,639,764**	**9,559,214**	**5,139,815**	**28,204,585**

[1] Includes Only the Institutional Scholarship/Grant Categories Listed On Next Page

[2] Institutional Scholarship/Grant Amounts Posted to Student Ledgers from 1/1/2013 - 6/30/2016

Institutional Scholarship and Grant Categories Included

Scholarship/Grant Categories	Amount	Percent
CE Academic Scholarship	$414,581	1%
CE African American Scholarship	$181,022	1%
CE Alliance Grants	$5,686,762	20%
CE Asian Student Scholarship	$149,671	1%
CE B2B Scholarship	$43,834	0%
CE Bachelor Upgrade Scholarship	$1,034,486	4%
CE Clinical Employee Grant 33%	$2,536	0%
CE Clinical Grant 33 %	$1,088,148	4%
CE Counselor's Choice	$272,926	1%
CE Dislocated Worker Discount	$159,550	1%
CE Employee Family Scholarship (20%)	$219,898	1%
CE Entrepreneur Scholarship	$149,826	1%
CE Family Grant	$3,980,397	14%
CE First Time Degree Scholarship	$461,838	2%
CE Future in Nursing Scholarship	$257,468	1%
CE GED Scholarship	$572,778	2%
CE Healthcare Provider Scholarship	$537,353	2%
CE High School Scholarship	$3,030,784	11%
CE Hispanic Student Scholarship	$290,278	1%
CE Hospital Grant 50 %	$13,636	0%
CE Inside Grant	$99,499	0%
CE Inside Scholarship	$1,240,629	4%
CE International Scholarship	$97,500	0%
CE IT Professional Scholarship	$392,225	1%
CE Leadership Scholarship	$325,667	1%
CE Legacy Grant	$6,882	0%
CE Master's Degree Scholarship	$3,557,868	13%
CE Mayor's Scholarship	$351,939	1%
CE Moms in Math Scholarship	$187,858	1%
CE Native American Scholarship	$134,732	0%
CE NPAC 25%	$9,931	0%
CE Presidential Scholarship	$441,089	2%
CE Professional Mens Scholarship	$209,939	1%
CE Professional Womens Scholarship	$409,621	1%
CE Single Parent Scholarship	$400,740	1%
CE Student Clinical Scholarship	$116,618	0%
CE Your Future - Assoc	$157,702	1%
CE Your Future - Bachelors	$181,047	1%
CE Your Future - Full Tuition Scholarship	$862,754	3%
CE Your Future - Half Tuition Scholarship	$472,574	2%
Grand Total	**$28,204,585**	**100%**

EXHIBIT 5

ROBERT SHIREMAN BACKGROUND

In 2009, The Obama Administration Hired Bob Shireman As Deputy Undersecretary At The Department Of Education. "In 2009, with the Obama administration in place, the environment changed substantially. The Obama administration immediately hired Bob Shireman as deputy undersecretary at the DOE; Shireman had formerly been at the DOE under President Clinton. The first issue to be addressed was the revocation of the Safe Harbors, which would effectively render incentive compensation illegal--again." (Robert Macarthur, "Online Education Fraud: The Diary Of A Short Seller," Online Education Fraud)

- **In June 2010 When Shireman Left The Education Department, He Was Immediately Hired As A Consultant Until 2011.** "When Shireman left the department in June 2010, he was immediately hired as a consultant." (Melanie Sloan, "Education Official Who Left Under Ethical Cloud Returns To Washington," *Roll Call*, 7/14/14)

"In 2004, Shireman Launched The Institute For College Access And Success (TICAS)." "In 2004, Shireman launched the Institute for College Access and Success, where his early leadership on the issue of rising student debt prompted Congress to adopt income-based repayment for student loans." ("The Team," California Competes, Accessed 3/3/15)

Shireman Was Under Investigation By An Inspector General For Violating Ethic Laws

Former Deputy Undersecretary Of Education Robert Shireman "Left The Government Under A Cloud," Facing An Investigation By An Inspector General For Ethics Violations. "Robert Shireman, former Deputy Undersecretary of Education, left the government under a cloud, and still faces an Inspector General investigation into whether he violated ethics laws by discussing sensitive government information about a pending and hotly contested negotiated rulemaking proceeding with an outside organization he founded, The Institute for College Access and Success (TICAS), and for which he served as president just prior to his tenure at Education." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

- **In April 2012, Justice Department Lawyers Wrote A Letter To Mr. Shireman Saying, "We Have Documents Showing Your Involvement Or Interaction With TICAS In Matters Pending Before The U.S. Department Of Education In Violation Of The Statute."** "'We have documents showing your involvement or interaction with TICAS in matters pending before the U.S. Department of Education in violation of the statute,' Justice Department lawyers wrote in a letter to Mr. Shireman in April 2012. 'Your conduct may render you personally liable,' the letter stated. The letter and other legal documents showing the Justice Department's interest in Mr. Shireman were recently disclosed as part of a legal proceeding on the scope of a subpoena request." (Brody Mullins, "Former Education Official Faces Federal Investigation," *The Wall Street Journal*, 5/16/13)

- **Shireman Is Being Investigated For "Discussing Sensitive Government Information About A Pending And Hotly Contested Negotiated Rulemaking Proceeding With An Outside Organization He Founded, The Institute For College Access And Success (TICAS)."** "Robert Shireman, former Deputy Undersecretary of Education, left the government under a cloud, and still faces an Inspector General investigation into whether he violated ethics laws by discussing sensitive government information about a pending and hotly contested negotiated rulemaking proceeding with an outside organization he founded, The Institute for College Access and Success (TICAS), and for which he served as president just prior to his tenure at Education." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

- **"In Court Papers Dated April 17, 2013, The Department's Office Of Inspector General Said That For Two Years Beginning February 2009, 'There Were Communications Between Mr. Shireman And TICAS Through Mr. Shireman's TICAS Email And Personal Email Accounts.'"** (Brody Mullins, "Former Education Official Faces Federal Investigation," *The Wall Street Journal*, 5/16/13)

In July 2014, Senators Richard Burr And Tom Coburn Wrote A Letter To Education Secretary Arne Duncan Requesting Records Related To Shireman Sharing "Sensitive Government Information". "In a letter to Education Secretary Arne Duncan, Republican Sens. Richard Burr and Tom Coburn reiterated a request for records related to former

Education Department official Bob Shireman. A 2010 investigation found that Shireman, as deputy undersecretary of education, shared 'sensitive government information' with The Institute for College Access and Success, which he founded." ("Senators Want Shireman Info," *Politico Pro,* 7/17/14)

- **Letter: "We Were, And Continue To Be, Concerned Over Department Employees Engaged In Improper Release Of Information That Might Have Resulted In The Financial Gain Of Certain Individual Investors."** "In March, a U.S. District Court ordered TICAS to turn over relevant emails and documents. 'We were, and continue to be, concerned over department employees engaged in improper release of information that might have resulted in the financial gain of certain individual investors,' the senators wrote." ("Senators Want Shireman Info," *Politico Pro,* 7/17/14)

- **The Senators Requested "Department Communications And Contracts With Shireman And TICAS, To Be Delivered Within 10 Business Days."** "They requested department communications and contracts with Shireman and TICAS, to be delivered within 10 business days." ("Senators Want Shireman Info," *Politico Pro,* 7/17/14)

<u>Shireman Used His Relationship With Wall Street Investors To Tighten Regulation Of For-Profit Colleges</u>

Shireman Was Considered "The Former Architect Of The Obama Administration's Effort To Tighten Regulation Of For-Profit Colleges." "Robert Shireman is skeptical. The former architect of the Obama administration's effort to tighten regulation of for-profit colleges now heads California Competes, a higher education reform group." (Doug Lederman, "Blurring the Nonprofit/For-Profit Divide," Inside Higher Ed, 2/23/15)

- **Uncovered Records Show "Extensive Contact Between DOE Officials And Wall Street Investors."** "During his time as Deputy Undersecretary, Mr. Shireman headed the effort to more stringently regulate for-profit education companies. An investigation by CREW uncovered records showing extensive contact between DOE officials and Wall Street investors." ("CREW Seeks Records Related To Former Education Official Robert Shireman," Citizens For Ethics, 6/2/14)

- **Records Also Revealed Many Emails Where "Short-Sellers Were Influencing Proposed Regulations In A Way That Stood To Drive Down The Stock Price Of For-Profit Colleges And Allow Investors To Reap Huge Profits."** "Particularly troubling were the many emails that revealed short-sellers were influencing proposed regulations in a way that stood to drive down the stock price of for-profit colleges and allow investors to reap huge profits." ("CREW Seeks Records Related To Former Education Official Robert Shireman," Citizens For Ethics, 6/2/14)

Department Emails Show Shireman And "Other Senior Department Officials Shared Information With TICAS And Other Groups That Were Pushing The Education Department To Clamp Down On For-Profit Colleges." "Mr. Shireman and other senior department officials shared information with TICAS and other groups that were pushing the Education Department to clamp down on for-profit colleges, according to departmental emails released in recent years. The for-profit firms rely on government-backed student loans for a big chunk of their revenue." (Brody Mullins, "Former Education Official Faces Federal Investigation," *The Wall Street Journal*, 5/16/13)

<u>In 2012, A Federal Judge Blocked Shireman's Gainful Employment Regulations</u>

Robert Shireman Was "A Leading Advocate" For The Gainful Employment Regulations Which Placed Stricter Regulations On For-Profit Higher Education." "During the gainful employment rule-making session, Department officials had floated the idea of creating a program-level default rate requirement, which might be harder for for-profits to manipulate; this could be a positive development if the Department follows through... 'In a recent memo to some colleagues, Robert Shireman, who previously served as Deputy Undersecretary of Education in the Obama Administration and was a leading advocate for accountability measures, outlined the Department's enforcement shortcomings.'" (David Halperin, "Arne Duncan's Last Best Chance to Save Students From Abusive For-Profit Colleges," *The Huffington Post*, 10/10/13)

- **In 2012, A Federal Judge Blocked The Regulations.** "Let's stipulate up front that Bob Shireman is anything but an objective observer of for-profit higher education. For much of President Obama's first term, he made life a living hell for colleges in the sector through his aggressive pursuit of new regulations designed to ensure they

were preparing their graduates for 'gainful employment.' A federal judge blocked the rules in 2012, and Shireman moved on to a new job in California where he has focused more on the performance of the state's community colleges than on for-profit institutions." (Doug Lederman, "For-Profits' Fundamental Difference," Inside Higher Ed, 5/22/14)

A Inspector General's Investigation In 2012 Found That The Education Department's Process For Handling The Administration's "Gainful Employment Regulations" Was "Not Sufficiently Transparent". "The inspector general's investigation of Shireman, which began in December 2011, according to court filings, is related to a broader inquiry of how the Education Department handled the contentious fight over the administration's 'gainful employment regulations' governing vocational programs at for-profit and community colleges. In June 2012, the inspector general issued a report that largely cleared the department of accusations that it had improperly leaked market-moving information about its 'gainful employment' rules to outsiders, especially Wall Street investors. Still, it found that the department's process was not sufficiently transparent and, separately, noted that it was investigating a former official for possible ethics violations." (Michael Stratford, "Judge Compels TICAS Emails," Inside Higher Ed, 3/20/14)

Shireman Pushed Department Of Education Officials For Information Without FIOA Requests

Emails Show Government Officials Became "More Cautious In Their Dealings With Mr. Shireman." "CREW's FOIA request sought, in part, records from January 1, 2013 through the present related to Mr. Shireman and TICAS. Many of the hundreds of responsive documents Education provided are heavily redacted. But there are more than 80 pages of emails sent to, from, or including Mr. Shireman and Education officials. They suggest Education officials have – appropriately – become more cautious in their dealings with Mr. Shireman." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

- **Shireman Pushed For Inside Information From An Education Official Who Refused Without A FOIA Request.** "In response to one request by Mr. Shireman for information, an Education official noted she could not give it out without a FOIA request. Mr. Shireman pushed back, apparently not used to having his requests for inside information from Education turned down." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

Shireman Faces Questions Over His Consulting Agreement With The Department Of Education

Shireman Has Also Faced Questions About The "Terms Of His Sweetheart Deal" With The Department Of Education "To Stay On As A Paid Advisor While Still Retaining All Of His Federal Benefits." "Other questions have emerged about the terms of a sweetheart deal Mr. Shireman made with Education to stay on as a paid advisor while still retaining all of his federal benefits." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

- **In June 2010 When Shireman Left The Education Department, "He Was Immediately Hired As A Consultant" And Continued To Receive "Health Care, Paid Leave And Retirement Benefits Although The Department's Personnel Manual Specifically Prohibits Consultants From Receiving Such Benefits."** "When Shireman left the department in June 2010, he was immediately hired as a consultant. Despite this change in employment status, documents show Education officials allowed Shireman to continue receiving health care, paid leave and retirement benefits although the department's personnel manual specifically prohibits consultants from receiving such benefits." (Melanie Sloan, "Education Official Who Left Under Ethical Cloud Returns To Washington," *Roll Call*, 7/14/14)

- **When Details Were Pressed Over The Agreement, The Education Department "Redacted The Identities Of The Officials Who Signed Off On The Arrangement."** "When CREW sought details about Shireman's consulting agreement, Education redacted the identities of the officials who signed off on the arrangement." (Melanie Sloan, "Education Official Who Left Under Ethical Cloud Returns To Washington," *Roll Call*, 7/14/14)

Shireman's Foundation TICAS Faces Legal Action From The Department Of Justice For Failure To Comply

The Department Of Justice Was Forced To File Legal Action After TICAS Refused "To Comply With An OIG Subpoena For Records Regarding Its Interaction With Mr. Shireman." "ICAS refused to comply with an OIG subpoena for records regarding its interaction with Mr. Shireman, forcing the Department of Justice to file legal action." ("CREW Seeks Records Related To Former Education Official Robert Shireman," Citizens For Ethics, 6/2/14)

- **"In March, A Federal Court Ordered TICAS To Turn Over Documents."** ("CREW Seeks Records Related To Former Education Official Robert Shireman," Citizens For Ethics, 6/2/14)

- **"Hundreds Of Other Emails Reveal TICAS Officials Are Continuing To Weigh In On Education Policy, Most Recently On The Pell Grant And Student Loan Programs, And To Push For Advance Notice Of When Data Will Be Publicly Disclosed."** "Hundreds of other emails reveal TICAS officials are continuing to weigh in on Education policy, most recently on the Pell Grant and student loan programs, and to push for advance notice of when data will be publicly disclosed. Apparently TICAS continues to believe even without Mr. Shireman at the helm at Education, it has an inside track." (Anne Weismann, "Robert Shireman's Continuing Efforts To Influence Education Policy, Citizens For Ethics, 9/25/14)

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EXHIBIT 6

Some Owners of Private Colleges Turn a Tidy Profit by Going Nonprofit

By PATRICIA COHENMARCH 2, 2015

Keiser University's campus in Sarasota, Fla. The Keiser family sold the 15-campus university to a nonprofit that it had created. Credit Scott McIntyre for The New York Times

After a recent government crackdown on the multibillion-dollar career-training industry, stricter limits on student aid and devastating publicity about students hobbled by debt and useless credentials, some for-profit schools simply shut down.

But a few others have moved to drop out of the for-profit business altogether, in favor of a more traditional approach to running a higher education institution.

And the nonprofit sector, it turns out, can still be quite profitable.

Consider Keiser University in Florida. In 2011, the Keiser family, the school's founder and owner, sold it to a tiny nonprofit called Everglades College, which it had created.

As president of Everglades, Arthur Keiser earned a salary of nearly $856,000, more than his counterpart at Harvard, according to the college's 2012 tax return, the most recent publicly available. He is receiving payments and interest on more than $321 million he lent the tax-exempt nonprofit so that it could buy his university.

And he has an ownership interest in properties that the college pays $14.6 million in rent for, as well as a stake in the charter airplane that the college's managers fly in and the Holiday Inn where its employees stay, the returns show. A family member also has an ownership interest in the computer company the college uses.

Keiser University, which has about 20,000 students spread over 15 campuses, is one of a handful of for-profit colleges that have switched to the nonprofit arena or are considering that move.

The shift means more restrictions on moneymaking ventures and loss of ownership. But nonprofit schools — defined as providing a public benefit — do not have to pay taxes, are eligible for certain state grants and can receive more money from the federal student loan program.

Consumer advocates and legal experts warn that some institutions might be shifting primarily to avoid stepped-up government scrutiny and regulation. Moreover, said Lloyd Mayer, an associate dean and law professor at Notre Dame Law School: "There is a concern that the now-nonprofit colleges may be providing an impermissible private benefit to their former owners. These sorts of arrangements raise yellow flags."

Dr. Keiser, who started Keiser University in 1977 with his mother, Evelyn, now 91, scoffed at such criticism. "My goal has been to build a family legacy," he said. Becoming a nonprofit "was a natural transition for us," and "for our students, too," he said, allowing the institution to expand into a residential college.

He said that the family had long planned the move to the nonprofit sector, laying the groundwork in 1998, when it first bought a small Florida college and later converted it to the nonprofit Everglades. Keiser now offers 100 degrees and certificates in subjects that include baking and pastry arts, nursing and political science.

As for any financial conflicts of interest, he said: "We disclosed everything. There's nothing wrong with it."

Dr. Keiser, who is the House Republicans' appointee to the Education Department panel that oversees accreditation, formerly was chairman of the governing board of the Association of Private Sector Colleges and Universities, which filed a lawsuit in November challenging new federal regulations. These require for-profit colleges and trade schools to show that their students will eventually earn enough money to pay their student loans.

The rules are a result of longstanding complaints that the industry lures mostly poor and minority students with misleading information about the value of the schools' degrees and costs, and then saddles them with onerous debt.

According to estimates from the Obama administration, about 1,400 programs that enroll 840,000 students would fail the new gainful employment rules. If they do, the government can impose sanctions that could eventually lead to a cutoff of federal student aid and loans, the schools' lifeblood. For-profit colleges receive roughly $30 billion a year in taxpayer-funded student aid.

Some institutions are already struggling. The giant for-profit chain Corinthian Colleges, which once took in $1.4 billion a year in taxpayer funds, has virtually collapsed after a series of state and federal inquiries and lawsuits.

For-profit schools vigorously opposed the newest rules, arguing that they would ruin institutions that serve students who have few other educational options. Defenders point out that some have better graduation records than community colleges and are much better at responding to a changing job market.

The states have opened another line of attack, with at least 24 attorneys general investigating whether for-profit colleges under their jurisdiction have engaged in false advertising, illegal recruiting practices or predatory loan schemes.

Arthur Keiser Credit Willie J. Allen Jr./Tampa Bay Times

Keiser University was the subject of an investigation by the Florida attorney general before its sale to the family's nonprofit. In 2012, it reached a settlement and agreed to offer thousands of students free retraining, but did not admit any wrongdoing.

In November, Robert Shireman, a fierce industry critic and former Education Department official, filed a complaint with the Internal Revenue Service accusing Mr. Keiser and three board members of violating tax regulations and using the nonprofit "for personal gain."

According to Everglades's 2012 tax return, one of the university's nine board members owns a business that provided the college's paperless filing system. A family member of a second board member owns Cutting Edge Recruiting Solutions, which the college used. A third, who owns a pool maintenance company in Florida, received "a net share of income from the aquatic engineering program."

An emailed response from Keiser said that all the financial arrangements "are at fair market value terms and conditions," and that the college adheres to "generally accepted auditing and accounting principles," as defined by the I.R.S.

Keiser University was valued at $521 million, tax returns show. Dr. Keiser said the valuation was arrived at by two independent auditors.

He lent Everglades $321 million for the sale and donated much of the rest, a charitable gift that potentially shaved tens of millions of dollars off his tax bill. The Keiser family maintained an ownership interest in the land and property.

Other owners have followed a similar template of financing the purchase of their for-profit colleges through a combination of loans and tax-deductible donations to a closely affiliated nonprofit. The new tax-exempt entity subsequently leases the space from the original owners at multimillion-dollar annual rents. The before-and-after management team is often virtually the same.

The Education Department has final approval over the shift to nonprofit status, reviewing a school's financial obligations and administrative capabilities. None have yet been rejected.

"I don't think anyone with any rudimentary knowledge with how nonprofits are supposed to operate and the for-profit college industry could fail to conclude that the transaction is structured to benefit insiders and that the former owners are making a lot of money off the nonprofit," said David Halperin, a Washington lawyer and the author of "Stealing America's Future: How For-Profit Colleges Scam Taxpayers and Ruin Students' Lives."

Such a characterization unfairly smears the whole industry, said Neil Lefkowitz, a Washington lawyer who specializes in transactions involving education companies. "The concept of for-profit education has been quite demonized, and so many institutions are really feeling the pinch," he said.

In 2012, Carl B. Barney sold several for-profit colleges, including Stevens-Henager, CollegeAmerica and California College, to a small Denver-based nonprofit, the Center for Excellence in Higher Education, which, according to court documents, consists of a single member: Mr. Barney, its chairman.

Mr. Barney lent the nonprofit $431 million for the sale, and donated millions more, the center's tax returns and court records show. He also collected nearly $5.1 million in rent from the schools in 2013. The value of its "intangible assets" — such as its reputation and copyrighted trade secrets — was listed at $419 million.

A lawsuit joined by the Justice Department last year charged that the sale was, "at least in part, to evade certain regulatory requirements that apply to for-profit schools," and that "the schools continue to operate more or less as they did prior to the merger."

In December, the Colorado attorney general sued Mr. Barney and the schools over misleading and illegal practices. "These allegations are entirely false and they defame us," Mr. Barney said. "We are fighting back to the very end."

He derided the notion that he was making any money from the schools or the center, an organization devoted to libertarianism and the free-market philosophy of Ayn Rand. "You cannot profit from a nonprofit," Mr. Barney said.

In 2011, Remington College, another Florida-based for-profit school, was sold to a nonprofit with the owners lending it $136 million for the sale, according to its 2013 tax return.

In January, Herzing University, based in Wisconsin with campuses in eight states, announced that it had completed its conversion to a tax-exempt nonprofit. And Grand Canyon University in Phoenix is trying to convert from a publicly traded company worth more than $2 billion to a nonprofit.

Because of the stigma now dogging for-profit colleges, nonprofit status has become a crucially important marketing tool.

"Some are truly not doing this to evade regulations," Mr. Lefkowitz said. "They are really having trouble recruiting students."

EXHIBIT 7

Congress of the United States
House of Representatives
Washington, DC 20515

April 27, 2015

The Honorable Arnold Duncan
Secretary
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Secretary Duncan:

A recent front-page article in *The New York Times*, "Some Owners of Private Colleges Turn a Tidy Profit by Going Nonprofit," described how some owners of for-profit colleges have converted their institutions to non-profits in ways that do not appear to be legitimate. For example, in addition to receiving a high salary, the president of one "non-profit" college takes in tens of millions of dollars from the college in rent, loan payments, and even income from private planes and hotels used by college employees, according to the article. The president of another recently-converted non-profit also serves as the college's major creditor and has the sole power to create and disband the college's board.

Under the Department's regulations, the presumption is that an institution that has changed its ownership is not eligible for federal funds unless you determine, affirmatively, that it meets the standards. Where there is evidence that a purported non-profit institution is not operating as a valid charity, it is a clear indication that the entity lacks financial responsibility and therefore cannot be approved by you as eligible to receive federal financial aid funds. We request an explanation of why such payments, if they are occurring, would not be considered violations of the Antideficiency Act.

We write to ask you to carefully examine the recent conversions to determine whether these institutions may legitimately be treated as non-profits for purposes of Department of Education regulations or whether they instead should remain covered by the rules and notifications governing for-profits. In particular, we ask whether the Department reviewed or consulted with the IRS regarding:

- The price paid by the non-profit to acquire the for-profit institution, whether it was arrived at in accordance with state and federal laws, and what documentation the Department has reviewed regarding the sale.
- The role of owners and executives of the for-profit institution in the management of the non-profit institutions, before and after the acquisition, and whether it is in compliance with state and federal rules governing charities.
- Any purported donation of assets by owners in the context of the transaction and the method used to determine the value of the donation.
- The retention of real property by the owners of the for-profit in the context of the acquisition by the non-profit and whether the ongoing payment of rent to trustees and management of the non-profit is appropriate for a charity.

- Other past and ongoing payments to trustees of the non-profit organization and whether those payments are appropriate under IRS and state regulations governing charities.
- Bylaws, conflict of interest guidelines, and other governance documents for the non-profit and whether they reflect the standards expected of charities.

It is critical for the Department of Education to undertake robust reviews of conversions of for-profit institutions to non-profits, including the critically-important conflict-of-interest issues enumerated above. When colleges violate non-profit requirements, the Department of Education cannot be assured of the institution's integrity. We request a report detailing the status of the changes of ownership and the content of your review of all conversions over the last 5 years, including: Keiser University and Everglades University; Herzing University; California College San Diego, Stevens-Henager, CollegeAmerica and the Center for Excellence in Higher Education; Remington College and EducationAmerica.

If you do not have a process for rigorous review of conversions from for-profit to non-profit status, we ask that you impose an immediate moratorium on the approval of new conversions until an appropriate process can be established and urge you to review the previous approvals of conversions. Please also report to us the information that is being provided to consumers about these institutions; in particular, does the Department of Education's College Navigator accurately portray whether an institution is operating as a valid non-profit? Finally, please provide us with details regarding any current request for authorization or guidance from for-profit institutions that are considering converting, including: Grand Canyon University and Career Education Corporation.

As you know, non-profit and public institutions are given greater access to many federal programs because they lack the personal financial motives that can sometimes cause for-profit entities to take advantage of consumers and/or taxpayers. Conversely, for-profit companies are more robustly regulated because they are run by people with a conflict of interest. If we continue to allow for-profit institutions to exist under the guise of a non-profit status, we will be allowing the owners to evade the rules, leaving students and taxpayers highly vulnerable.

We appreciate your prompt attention to this issue, and we look forward to hearing about your current procedures and of your plans for ensuring that taxpayers and consumers are adequately protected.

Sincerely,

ROSA L. DeLAURO
Member of Congress

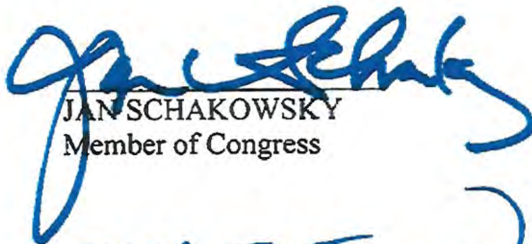
EARL BLUMENAUER
Member of Congress

SUSAN A. DAVIS
Member of Congress

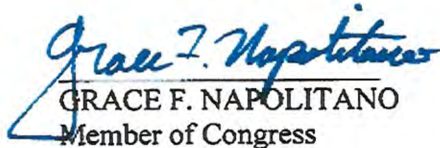
JANICE HAHN
Member of Congress

MARK TAKANO
Member of Congress

JACKIE SPEIER
Member of Congress

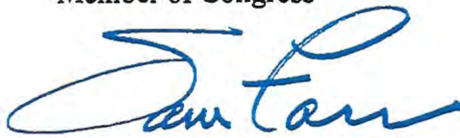

JAN SCHAKOWSKY
Member of Congress

ELIJAH E. CUMMINGS
Member of Congress


GRACE F. NAPOLITANO
Member of Congress

MAXINE WATERS
Member of Congress

RAÚL M. GRIJALVA
Member of Congress


SAM FARR
Member of Congress

KEITH ELLISON
Member of Congress

JOHN CONYERS, JR.
Member of Congress

JIM McDERMOTT
Member of Congress

STEVE COHEN
Member of Congress

BETO O'ROURKE
Member of Congress

JERRY McNERNEY
Member of Congress

BARBARA LEE
Member of Congress

EXHIBIT 8

The Covert For-Profit

How College Owners Escape Oversight through a Regulatory Blind Spot

Robert Shireman

Over the past decade, abuses by colleges operating in the for-profit education sector have been well documented.[1] Buoyed by a tide of government-enabled financing, these for-profit colleges expanded their enrollment from 1990 to 2013 more than ten times faster than did nonprofit or public schools,[2] and they widely engaged in aggressive and misleading recruitment and other predatory practices[3]—all to fill programs that had abysmally low completion and job placement rates. Many students that had enrolled in for-profit colleges were left with huge student loan debts and little else to show for their education investment. Meanwhile, taxpayers shelled out billions of dollars in financing and tax breaks for these schools, with little accountability to ensure that their students were getting an education that would lead to gainful employment.

Today, many of these for-profit institutions find themselves on the defensive and are now being scrutinized more closely, both by the government agencies that finance them and by consumers who may seek, instead, to enroll at public and other nonprofit institutions. High-profit, high-enrollment schools such as ITT Tech, DeVry, and the University of Phoenix are allowed to continue to participate in the federal loan program, but under even stricter rules.[4]

Recently, a new trend in the abuse of college students and federal education dollars may be under way: the creation of the covert for-profit. The owners of some for-profit institutions have sought to switch their schools to nonprofit status, freeing them from the regulatory burdens of for-profit colleges, while continuing to reap the personal financial benefits of for-profit ownership.

Prompted by news of several recent conversions of for-profit colleges into nonprofits, The Century Foundation has obtained IRS and U.S. Department of Education records and communications that call into question the legitimacy of some of these conversions. Through four case studies, based on hundreds of pages of documents obtained from government agencies, the examination reveals a dangerous regulatory blind spot, with the two federal agencies each assuming, wrongly, that the other is monitoring the integrity of the "nonprofit" claims of these colleges.

This report begins by describing the role of nonprofit governance in promoting good stewardship in education and the problems that have resulted from unrestrained profit-seeking in American higher education. The case studies then lay out four instances of possible covert for-profits, where owners have managed to affix a nonprofit label to their colleges while engineering substantial ongoing personal financial benefits for themselves. The report concludes with specific steps government regulators should take to prevent illegitimate claims to nonprofit status and to protect students and the public interest.

An enterprise organizes itself as "nonprofit" to provide some assurance to customers and donors that while the organization needs money to pursue its mission, the ultimate goal is not financial. Two core requirements are designed to offer that assurance. First, anyone who is paid is, ultimately, answerable to someone who is not. Those unpaid overseers are often called "trustees" because they are entrusted with the responsibility of ensuring that the organization is pursuing a charitable or educational goal rather than simply financial gain. They are unpaid (except in special circumstances) so that their

judgment of what is best for students or society is not skewed by a personal financial interest. Second, any money that is earned by the organization beyond what is needed to pay expenses (the amounts that would be profit in a for-profit entity) is reinvested in the organization. In other words, no one owns stock or shares that can be sold or earn dividends. The trustees control the organization in the same way that owners would, but they cannot take the money for themselves.[5]

Nonprofits are common in ventures that involve goals that are difficult to measure or populations that are vulnerable, such as public health, caring for the poor, the arts, religious or spiritual fulfillment—and education. In return for serving society's interests above private interests, nonprofit organizations are favored in providing certain types of services and are granted tax exemptions that can be substantial.

The unpaid trustees are seen as such a bulwark against abuse that the organizations are, in some cases, allowed to engage in practices that would be illegal in a for-profit context. Many nonprofits, for example, involve vast numbers of people who work for free as volunteers, a practice that is highly restricted in the for-profit environment. Imagine a supermarket or snack food chain enlisting two million underage girls to sell cookies: the operation would be shut down and the companies would be prosecuted. Yet the nonprofit Girl Scouts do exactly that every year, selling 175 million overpriced cookies baked by for-profit contractor bakeries. This "child labor" is not illegal because the Girl Scouts councils are nonprofit: their unpaid boards are trusted to engage in this cookie selling, which they believe benefits the girls and is consistent with the values of the organization. Compared to the supermarket owner or cookie baker, the Girl Scout councils are far more likely to make decisions that truly benefit the girls—*because council members do not have a personal financial interest*. They are not allowed to keep the money for themselves.

The nonprofit organization that runs Wikipedia offers a different type of example of how being a nonprofit affects the decisions that are made. While Facebook, Google, and other investor-owned Internet companies have all decided to take and sell our personal data for profit, Wikipedia has, remarkably, respected users' anonymity. Wall Street types, salivating over Wikipedia's billions of page views and massive troves of salable user data, think the people who run the organization are completely nuts. One analyst detailed all of the ways that Wikipedia could earn money, from selling advertisements to t-shirts, and calculated the website's lost revenue at $2.8 billion a year—forty-six times the organization's current income.[6]

Who would leave that kind of money on the table? People who are not allowed to take it. If Wikipedia had owners instead of trustees, the temptation to grab nearly $3 billion would be impossible to resist, even though it would destroy Wikipedia as we know it. Instead, Wikipedia has kept consumers' interests at the forefront because it is a nonprofit organization. It is a different beast as a result of being structured without owner-investors.

Putting non-owners in control serves as an internal regulatory mechanism, muting the temptation to "cut corners on quality or otherwise take advantage of user vulnerability," economists say. As a result, nonprofits "are more immune against moral hazards than for-profit firms would be under similar circumstances."[7]

In many contexts, a for-profit business structure operates beautifully, almost miraculously, leading to positive outcomes for provider and consumer alike. In education, however, because of the nature of the goal and "customer" (both students and society), the results of for-profit provision have frequently proved one-sided. The ability of investors to pocket whatever (often taxpayer-supplied) funds that are

not already spent, or to buy and sell shares in the business organization, can prompt noticeably different choices on a range of institutional decision points, such as:

- Which students to recruit and enroll; whether to enroll students who are on the borderline of academic qualifications.
- Whether and how fast to grow enrollment, given the need to maintain quality.
- How much to charge which students (pricing and aid/discounts).
- Who to hire as instructors and staff.
- How much to rely on full-time versus adjunct faculty.
- How much to defer to faculty expertise.
- The type of information and advice to provide to potential students.
- Which programs (majors) to create, expand, or contract.
- How standardized the curriculum should be.
- How and where to advertise; what information to put on the website.
- How much to spend on recruitment of applicants.
- What level of student performance is adequate to pass a class or to receive a degree.

At every turn in the educational enterprise, the owner's profit motive can distort the educational mission, making owner-operated schools more aggressive and singly-focused on maximizing return, even to the point of self-deception. And in fact, the presence of profit in higher education over the years has led to a series of scandals—and resulting attempts at reform.

When the G.I. Bill (the Servicemen's Readjustment Act of 1944) was enacted for soldiers returning from World War II, the funds they received could be used at any type of school. By 1949, more than five thousand new for-profit schools had sprung up. Investigations revealed that many of the schools were "inflating tuitions, extending the length of courses, enrolling too many students," and keeping students on the attendance rolls long after they had stopped attending.[8] To address the problems, Congress adopted a paying-customer requirement: schools would need to show that someone other than veterans was enrolled so that the schools could not simply price their programs to milk whatever maximum amount taxpayers offered up. It was a market test, called the 85–15 rule because no more than 85 percent of the students in a program could be veterans financed by the government.[9]

Sobered by the G.I. Bill experience, Congress, when creating the first national student loan program in 1959, restricted funding to public and nonprofit institutions.[10] When for-profits were later invited in, it was through what was considered a narrow and limited exception: loans would be available only for job-specific training, leading to "gainful employment in a recognized occupation."[11] Experts had assured Congress that occupational programs were a safe role for schools with owners because the programs would lead to graduates earning "sufficient wages so as to make the concept of student loans to be [repaid] following graduation a reasonable approach to take."[12] Unlike a broader liberal arts

education, which is difficult to measure, it would be easy to tell if a for-profit school is not offering valid training for a job.

The narrow vocational exception worked well for a while. But colleges were allowed to self-certify that a particular program was occupational in nature. While a program labeled as Liberal Arts or Philosophy might be rejected by the U.S. Department of Education, in most cases the companies' assertions were not challenged. As a result, over time, the colleges broadened and extended their offerings while continuing to check the box—declaring that each program "leads to gainful employment in a recognized occupation"—to gain them access to federal grants and loans. The career schools slowly but decidedly started thinking of themselves as no different from public and nonprofit colleges—even though the financial incentives and control structures were different in critically important ways.

In the 1980s, an explosion of student loan defaults led to what President Reagan's secretary of education William J. Bennett called "shameful and tragic" actions by for-profit institutions, evidence of "serious, and in some cases pervasive, structural problems in the governance, operation, and delivery of postsecondary vocational-technical education." Releasing a report to Congress about the problem, Bennett said, "The pattern of abuses revealed in these documents is an outrage perpetrated not only on the American taxpayer but, most tragically, upon some of the most disadvantaged, and most vulnerable members of society." The head of the trade association representing for-profit pledged to work with the secretary and the Congress to "close down any institution that is not operating in an ethical way."[13]

The 1980s abuses led Congress to enact a long list of reforms in 1992. Most of the reforms applied to all colleges, whether they had investor-owners or not. One provision that applied to for-profit institutions was a Department of Education version of the G.I. Bill's paying-customer requirement. Originally 85–15, and later changed to 90–10, it requires schools to show that they are not wholly reliant on money from the Department of Education.

In recent years, problems in federally funded for-profit education have reemerged with the advent of online education, weakened regulations, and lax enforcement. Starting in 2009, the Department of Education took a number of steps to firm up regulations designed to prevent fraud and abuse in the federal financial aid programs. Most of the regulations, such as the ban on bounty-paid recruiters, apply to all types of colleges and programs.

The regulatory proposal that was fought most vigorously by the for-profit lobby was a clarification of what it means to be an occupational program that "prepares students for gainful employment in a recognized occupation." Offering career-preparation programs is the primary route by which for-profit institutions gain access to federal funds, and the new "gainful employment" rules will end federal funding of programs that consistently fail to bring graduates adequate earnings given the student loan debt they are taking on.[14]

With the public and regulators increasingly cautious about for-profit education, what are college owners to do?

To escape the gainful employment and 90–10 rules, and to reassure consumers who have become wary of for-profit schools, some large education companies are beginning to explore whether they simply can reclassify themselves as nonprofits.[15] A valid and complete conversion—led by trustees with no financial interest and operating in good faith—would provide the oversight that makes nonprofits a better value and less inclined toward predatory practices.

Unfortunately, the conversion to nonprofit status is susceptible to abuse by covert for-profits—schools that obtain the nonprofit label yet continue operating like for-profit institutions—leaving consumers and taxpayers more vulnerable than ever.

Covert for-profit colleges can exist because while the Department of Education relies on the Internal Revenue Service's judgment of which institutions are and which are not valid nonprofits,[16] the IRS rests its determination on the declarations and self-regulation by the trustees of these nonprofits, based mostly on an honor system. As with other taxpayers, the IRS relies on the honesty of the individuals and corporations that file tax returns, an honesty that is tested only in case of an audit, which often takes place years afterward.

The path to nonprofit status starts, of course, with paperwork. Organizations that seek to be designated by the IRS as a tax-exempt nonprofit must complete a Form 1023, which asks a long list of questions about the entity's goals, structure, management, and finances. Sometimes, an examiner in the IRS Exempt Organizations Division will seek clarifications before designation as a tax-exempt entity is awarded, but the conclusion of the process relies on the assumption that the information provided by the respondent accurately reflects how the organization will wind up operating.

The IRS is quite aware that organizations evolve, sometimes in ways that are contrary to the rules that are supposed to apply to nonprofit entities. Since it would be impossible for the IRS to review and approve the nearly constant changes at the nation's more than 1,630,000 recognized tax-exempt organizations, the IRS relies on a system of self-regulation, backed up by the threat of potentially retroactive revocation of tax exempt status. For example, when awarded nonprofit status, organizations are told by the IRS that if they change their structures and operations, they do so at their own peril:

A ruling or determination letter recognizing exemption may not be relied upon if there is a material change inconsistent with the exemption in the ***character****, the* ***purpose****, or the* ***method of operation*** *of the organization.*[17]

The "IRS determination letter" is not only revocable, it can be revoked *retroactively*

if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction. . .for the purpose of diverting corpus or income from its exempt purpose.[18]

The revocation can go back as far as the entity's original approval as a nonprofit so that an entity that we all thought was a charity can be declared to have never been one. This look-back reparation was tested and affirmed in a seminal case decided in 2013: an organization aimed at helping people make down payments on purchasing homes was found to not be functioning as a valid nonprofit, and the IRS in 2010 revoked its tax-exempt status effective back to the organization's creation in 2000, ten years earlier.[19]

Put simply, if an organization acts like a for-profit entity, restructuring or operating in a way that is benefiting a particular person or family, the nonprofit designation can be revoked retroactively by the IRS.

The IRS, however, reexamines less than 1 percent of existing nonprofits each year,[20] which means that an entity without the requisite internal checks and balances in place to ensure nonprofit governance can operate in violation of IRS rules for years, or even decades, without getting caught.

Meanwhile, the Department of Education currently relies solely on the IRS label in determining nonprofit status. Beyond the IRS designation, there is no routine effort to ensure that a school is actually following the core expectations of nonprofits.[21] Maneuvering to affix a nonprofit label allows a school to essentially hide in plain sight, avoiding the regulations and scrutiny applicable to for-profit colleges as well as the financial accountability required of nonprofits.

Government records of four newly designated nonprofit schools that had all previously been operating as for-profit entities reveals some troubling behavior. While IRS Form 1023 filled out by the four college chains undergird the claims that they are making to nonprofit status, the annual tax returns (Form 990) filed by the colleges, and other evidence about the schools' actual activities and intentions, indicate that three of the four are operating in ways that are not at all consistent with what the organizations asserted when they were seeking the initial IRS approval; the fourth college's application appears to have gone through the IRS review without detection or discussion of its internal conflicts of interest.

Each year, more than half a billion tax exempt dollars have been flowing to just the four institutions examined for this report: Herzing University; Remington Colleges, Inc.; Everglades College; and the Center for Excellence in Higher Education (CEHE). The findings of this report, however, indicate that their regulatory treatment as nonprofit schools may not be justified.

When Herzing University was profiled in a U.S. Senate report in 2012, it was a privately held, for-profit company headquartered in Milwaukee, Wisconsin, with eleven campuses in eight states. While still relatively small, it had grown by 260 percent since 2001, to more than 8,000 students. Founded in 1965 by Henry and Suzanne Herzing, the company was originally a computer-training institute. Over time, it had morphed into a "university" offering Associate and Bachelor's degree programs in business management, electronics, health care, graphic design, and public safety, as well as some Master's degrees (online only). [22]

In the 2008–09 school year, Herzing's federal financial aid revenue grew to $73,633,448, a 42 percent increase over the prior year. At the same time, however, the proportion of revenue coming from paying customers or other sources of financial aid was dropping: 18 percent overall in 2008, 15 percent in 2009, 14 percent in 2010.[23] As a result, the school was approaching the 10 percent minimum that is required under the Department of Education's 90-10 rule. While the company is not allowed to count its own scholarships given to students as part of the 10 percent, support from independent scholarship programs would count.

On December 29, 2009, Henry Herzing submitted a Form 1023 to the IRS, seeking a tax-exempt designation for a new corporation called the Herzing Educational Foundation Ltd., which would provide college scholarships to poor students. The application was assigned to specialist Terry Izumi in the Cincinnati, Ohio, office of the IRS. Izumi was skeptical. Normally, giving scholarships to the poor would be a slam-dunk for an organization seeking nonprofit status. But the application was unusual because the scholarships would pay tuition at only one particular school, bearing Henry Herzing's name. Izumi investigated and discovered that the eponymous college was a business owned by Herzing.

In a letter to Henry Herzing, Izumi explained that, to be considered nonprofit, an organization must demonstrate that "it is not organized or operated for the benefit of private interests," such as particular individuals, their family members, shareholders, or people controlled—directly or indirectly—by

business owners or their family members. Why, Izumi asked, is the board of the Herzing Educational Foundation composed of people who own or operate the for-profit college, rather than by independent members of the community? If the board continues to include people with a financial interest in Herzing University, what system of checks and balances will be used to assure that the assets of the nonprofit are used exclusively for charitable purposes? How does the public know that you are not using the scholarship program as a recruiting tool of the for-profit entity?

After talking with Izumi by phone more than once, Herzing's lawyer sent to the IRS an eight-page letter, asserting that: (1) the foundation's day-to-day operations "will be minimal," with volunteers doing the bulk of the work in administering, perhaps, $60,000 in scholarships; (2) "there is no intent to use the assets of the organization for any other purpose" besides scholarships; and (3) "it is not anticipated that Henry Herzing will have a significant formal voice" in the nonprofit's activities. Two weeks later the IRS granted the scholarship foundation's request for status as a public charity. Then, last year, the foundation's leadership decided to use the nonprofit entity in a very different way (see Table 1).

Table 1

The nonprofit purchased Herzing University for $86 million from the Herzing family, effective January 1, 2015, and continues some leases of property from Herzing family members. According to a press report, a state official said that Herzing likely made the change to avoid new federal regulations and to gain access to state grant funding.[24] In response to a request for comment, attorneys for Herzing University (the nonprofit) assert that the purchase price, to be paid over thirty years, and the leases are approved by independent board members at fair market values and that "rigorous conflict-of-interest rules are followed in all such instances."

After questions were raised about the transaction by this author and by members of Congress, the university on July 6, 2015, asked the IRS to update its classification to reflect that it had become an educational institution. The IRS did so on August 19, noting that it had not undertaken a fresh review of the entity's nonprofit status. As of September 9, 2015, the Department of Education considers Herzing's request to be considered a nonprofit an open case "undergoing substantive review."[25]

Between the time that the Herzing Educational Foundation submitted its application for tax-exempt status and the actual designation by the IRS, more than eight months had passed, about the average time that it takes for IRS review of a Form 1023. Remington Colleges, Inc., with nineteen campuses in ten states and an online operation, got its IRS designation in eight weeks flat.

At the same time that it sought nonprofit status, Remington Colleges purchased a chain of schools, Educate America, owned primarily by Jerald Barnett, Jr., for $217,500,000. The college was quite open about the fact that it was attempting to evade the 90–10 rule, which requires colleges to show that at least 10 percent of their revenue is from courses other than the U.S. Department of Education. The *Chronicle of Higher Education* quoted school officials as saying that the reason for becoming nonprofit was to escape the 90–10,[26] a U.S. Senate committee's review of financial data concluded that the school's difficulties in meeting the 90 percent threshold "likely served as the prime impetus for conversion to nonprofit status,"[27] and the school's application for tax-exempt status actually includes escaping regulations as a reason for becoming nonprofit.[28]

For a nonprofit, however, the structure of Remington Colleges, Inc., is extremely unusual. As described earlier, the board of trustees for a nonprofit is normally comprised of people who care about the

organization's mission but do not gain any financial benefit from it. Carleton College in Minnesota, for example, is controlled by forty-two trustees (see Figure 1). Only one of them, the president of the university (who is hired by the rest of the board), earns anything at all. Everyone else donates time and, likely, money to the college, without the expectation of a financial return on their investment.

Figure 1

Remington Colleges, in contrast, has a five-member board of trustees. One of them is the CEO of the colleges. Another is the primary creditor, Jerald Barnett, whose company is collecting payments from Remington's purchase of his Education America campuses and who is the landlord for the properties used by the schools. The three other board members, considered independent in the Remington application for tax-exempt status, are the principal and two employees of a financial services firm, Stephens, Inc., which assisted with the purchase of the Educate America campuses for a fee of $2.5 million. Furthermore, Stephens, Inc., will continue to be paid by Remington to manage the retirement plan for employees (amounts not disclosed). Not only that, but Remington has given Stephens, Inc., an explicit waiver regarding conflicts of interest—meaning that the firm can choose investments that benefit Stephens, Inc., even if the investment choices are bad for Remington Colleges.[29] And the Remington board of trustees is actually not even in control. Instead, Warren Stephens, the owner of Stephens, Inc., has the power to replace Remington board members without cause.[30]

As Figure 2 shows, Remington's control structure is extremely convoluted, and may lack protections against self-dealing.

Figure 2

How did the IRS miss all of this in the exemption application? The IRS may have rushed because of the requester's insistence on an expedited review, accompanied with an explanation that created the impression that the U.S. Department of Education needed an answer within a particular time frame, which the lawyers for Remington described as about seven weeks from the date of their application. Among the exhibits submitted by Remington in the 2010 Form 1023 application was the following "Expedite Request":

The application materials provided by the IRS appear to indicate that the Remington application was approved without any questions from the IRS specialist to the applicant, in stark contrast to time and attention that the IRS put into its review of the Herzing application.

Remington officials did not respond to a request for comment from The Century Foundation.

The Form 1023 that Arthur Keiser submitted to the IRS in September 2000 seeking nonprofit status for Everglades College raised suspicions, leading to a twenty-one-month, 388-page tug-of-war between the Everglades lawyers and the IRS. The exchange between Keiser and the IRS is curious in its complexity—the IRS obviously saw many red flags in the application, yet eventually granted the college tax-exempt status. The record of the IRS requests and how Everglades responded to them provides a telling illustration of the principles at stake concerning nonprofit governance.

On March 7, 2000, Arthur Keiser petitioned the Florida Division of Corporations to change the name of a for-profit company he had purchased, American Flyers College, Inc., to Everglades College, Inc., and to convert the entity to a nonprofit corporation under Florida law. On September 6, 2000, Keiser filed a Form 1023 with the IRS seeking federal tax-exempt status for the converted company. The application

was assigned to charitable organization specialist Aletha Bolt and then transferred to specialist John Jennewein in Cincinnati.

The IRS had a lot of questions. The first set, sent in a January 2001 letter, included inquiries about a lease agreement between the proposed nonprofit and a company owned by the Keisers, Keiser School, Inc.; details of the purchase of the for-profit predecessor corporation; the assets and liabilities of Everglades and of the Keisers; and an appraisal of the value of the college. Everglades responded.

The IRS asked for more information about compensation of board members, the salaries and qualifications of faculty, and related topics. Everglades responded.

The IRS requested more information including the Keiser purchase agreement, the management agreement between Everglades Management (previously disclosed as owned in part by Keiser) and the college, any loan agreements, and an explanation of the connections to Keiser College, Keiser Career Institute, and Keiser Management Inc., Susan Ziegelhofer, the president of Everglades College, Inc., responded that there was no purchase agreement: the transfer of the college "was a charitable contribution of the entire educational facility." She further declares that there are no loans between the for-profit and tax-exempt entities.

In response, the IRS requested that Everglades provide the following information regarding loans or payments to Keiser-controlled entities:

For each of the following please explain and specify the accounts:

a. Accounts Payable and Accrued Expenses please provide a detail [sic] explanation why there is a $50,951.18 debit balance in this account?

b. If you have no loan or note agreements who is the loan with and what is the relationship for the Loan Payable of $16,208.41 and please explain the terms and conditions of the loan?

c. Who is the Loans and Notes Receivable with and what is the relationship and please explain the terms and conditions of the loan?

d. Who is the Loan Receivable in the amount of $1,655 with and what is the basis for the loan and please explain the terms and conditions of the Loan Receiveable?

e. Why do you show an amount due to Keiser College for the amount of $463. [sic]

f. If you have no management contracts or fees charged by Everglades Management, Inc explain why do you show an amount of $8,232 due to them? If it is for services please explain the services and what the basis for the charge?

On July 10, 2001, Arthur Keiser, writing as chancellor of Everglades College, explained the various loans and amounts.

On July 16, 2001, a letter from the director of the Exempt Organization Division of the IRS declared the case closed because "we have not received the information necessary to make a determination of your tax-exempt status."

Months went by, with no documents in the IRS file indicating what, if anything, happened. Then, on December 18, 2001, Jennewein sent to Everglades a detailed seven-page description of the problems with the request for tax-exempt status for Everglades. He cited as reasons for concern the fact that the Memorandum of Understanding for flight training "is serving the private benefit of a for-profit entity" and that "Everglades gave scholarships . . . to students at Keiser College, a for-profit college owned by Arthur, Evelyn, and Robert Keiser." Therefore, as Jennewein described in his letter, Everglades is serving the private benefit of a for-profit entity," as well as renting of Keiser-owned buildings:

Correspondence dated March 30, 2001 signed by Arthur Keiser, President of Everglades College, stated that the building in which the school is located is owned by a partnership in which related parties have a 42% interest and unrelated parties owned a 58% interest. The related parties are Keiser Building Corp., which is owned by Arthur Keiser who owns a 2% interest in the partnership; Spectrum Investment Associates which owns a 40% interest in the partnership is owned 48% by Arthur Keiser, 48% by Belinda Keiser and 4% by Robert Keiser. These joint venture (owned 42% by related parties) leases space to Keiser College which in turn's subleases to Everglades College, Inc. The entire building comprises 83,824 square feet, including the are [sic] occupied by Everglades College. Also, housed in this facility are Keiser Career Institute and Everglades Management Company. Again, this arrangement services the private benefit of the Keisers and they're related for profit entities.

He cited the laws, regulations, and court cases governing tax-exempt entities, including a case that says:

When a for-profit organization benefits substantially from the manner in which the activities of a related organization are carried on, the latter organization is not operated exclusively for exempt purposes within the meaning of section 501(c)(3), even if it furthers other exempt purposes.[32]

He cited a school-specific ruling from the IRS that hinges in part on the board of the nonprofit being "completely different" from the for-profit entity's owners:

Rev. Rul. 76-441, 1976-2 C.B. 147, presents two situations concerning school operations. In the first scenario a nonprofit school succeeded to the assets of a for-profit school. While the former owners were employed in the new school, the board of directors was completely different. The ruling concludes that the transfer did not serve a private interest. Part of that conclusion was based on the independence of the board. In the second scenario, the for-profit school converted to a nonprofit school. The former owners became the new school's directors. The former owners/new directors benefited financially from the conversion. The ruling concludes that private interest was served. The conclusion is stated as follows: "The directors were, in fact, dealing with themselves and will benefit financially from the transactions. Therefore, (the applicant) is not operated exclusively for educational and charitable purpose and does not quality for exemption from federal income tax under Section 501 (c) (3) of the Code."

He explained why Everglades does not qualify as tax-exempt, and suggested that the application be withdrawn:

Everglades College is privately held and controlled by the Keisers despite the fact that they do not constitute a majority of the governing board. Therefore, it appears you operate for the benefit of private interests of the Keisers. You are similar to the organization in Old Dominion Box Co. . . . because you operate for the benefit of private parties. Operating for the benefit of the Keisers is a substantial nonexempt purpose that will preclude exemption.

Although Everglades College is offering educational courses to further one career, the central question is whether you operate for the benefit of private interest of designated individuals, or the creator or the creator's family. In Rev. Rul. 76-441 a for-profit school was converted to a nonprofit school in which former owners/new directors benefited financially from the conversion. The ruling concludes that private interest was served. Although the operation of a school is a charitable activity, the manner in which you operate leads to conclude that your school bestows significant private benefit for the Keisers and their for-profit corporation.

Based on the facts and circumstances provided to date, it appears you cannot satisfy the basic requirements for exemption, in that you fail the operational test. To determine if you qualify under Section 1.501(c) (3)-1 (c) (1) of the regulations the Service determines if the organization engages primarily in activities which accomplish one or more exempt purposes. Section 1.501 (c) (3) – 1 (d) (1) (ii) of the regulations expands on the operated exclusively concept by providing that an organization is not operated exclusively to further exempt purposes unless it serves a public rather than a private interest. Based on the facts that you have provided in your application for recognition of exemption, it appears you are operated for a private purpose rather than a public purpose.

On January 2, 2002, the Everglades attorneys sent a letter, signed also by Arthur Keiser, detailing their responses to the December IRS letter, declaring that the Keiser scholarship recipients "were selected by an independent Board of Trustees"; that the rent paid to the Keisers is at fair market value and that "Dr. Keiser's preference would be for Everglades College to be housed in a different facility; however, its cash flow and working capital needs will not allow for such a move at this time"; and that the college will actually be run not by the board of directors of the corporation, but by the board of trustees (which includes Chancellor Keiser), which is an "independent governing board."

The thirteen-page Everglades response asserted multiple times that "Everglades College is governed by an independent Board of Trustees. Dr. Keiser has no control over the Board of Trustees or its decisions." Responding to the IRS's concern that Everglades College appears to operate for the benefit of the Keisers, the letter said that the opposite was the case: "now that Keiser College is planning to become a four-year program. . . . Everglades College will actually become a 'competitor' to Keiser College." The letter said at least twice that any benefit to the Keisers from Everglades was incidental at most, and concluded by saying: "Again, let me reiterate that neither Dr. Keiser nor any members of his family or any entities owned or controlled by them have derived, or will derive, any non-incidental private benefit attributable to Everglades College."

The IRS followed up with a request for more information, such as purchase agreements and details on shared space with Keiser College, asking specifically about the independence of the board of trustees. Everglades responded. The IRS then sent a letter recommending that the board of directors be expanded by two people "selected from the community in which you serve." Everglades responded by adding two new directors, Dale Chynoweth and Zev Helfer, "who were selected from the community [and] are unrelated to the members of the current Board of Directors" (Arthur and Belinda Keiser, and James Waldman, an attorney who was then vice mayor of Coconut Creek).

Eventually, on July 7, 2002, the IRS relented and granted Everglades College tax-exempt status, saying to Keiser, "assuming your operations will be as stated in your application for recognition of exemption." As Table 2 shows, this conditions appears not to have been met.

Table 2

The spirit of nonprofit governance by an independent board of trustees appears to be severely strained in the case of Everglades College. According to records available from the Florida Division of Corporations, at the time that Dale Chynoweth was added to the board of directors, he was hardly "unrelated" to other board members, as he was partner with Arthur Keiser in at least one business (Spectrum Business Park Association). In the ensuing years, the two were business partners in multiple properties that are rented by Everglades College. Zev Helfer joined Arthur Keiser as a business partner (College Pathology Labs, Inc.) just months before being named as an added "unrelated" director of Everglades College, Inc. James Waldman became a state representative, is the general counsel of Everglades College, Inc., and is the registered agent for various related Keiser businesses.

In addition to a board of directors, the corporate bylaws submitted to the IRS for Everglades College, Inc., call for a separate board of trustees to run the college. The bylaws declared that "The independence of the Board of Trustees is crucial to ensure that Everglades College meets the needs of the communities in which it serves," and Everglades told the IRS that no more than two trustees would either be employees or have "any other business relationship with Everglades College." The 2011 Form 990 submitted to the IRS for Everglades College indicates that three of the trustees owned businesses involved in transactions with Everglades College.

The Form 990 for 2011 also revealed that Everglades College had purchased the schools owned by the Keiser family, valued at $521,379,055, with $300,000,000 paid through a loan from the Keisers themselves and the remainder considered a tax-deductible donation by the Keisers. In total, the 2011 Form 990 reveals that Everglades College, Inc., paid $34,481,789 to entities owned by Keiser family members, including:

- $10,875,079 pursuant to the purchase agreement for the Keiser schools;
- $21,205,015 in rent and hotel stays at properties owned at least in part by the Keisers;
- $1,449,086 for chartered plane travel through companies at least partly owned by the Keisers; and
- $130,305 for services from a computer company owned by Keiser family members.

To provide some perspective on the enormity of the $34 million total, consider that the highest-paid nonprofit president as reported by the *Chronicle of Higher Education* for 2012 earned $7 million,[33] and the $34 million would cover the combined salaries of all of the top forty highest-paid public university presidents in 2013.[34]

Arthur Keiser told a reporter that selling his Keiser schools to Everglades was about "ensuring his family would have a continuing role in running the university."[35]

Offered the opportunity to comment on a summary of these findings, a representative of Keiser University provided a brief statement describing the school's history and asserting that "The structure of the corporation and acquiring of assets followed ALL state and federal guidelines and regulations."

On March 1, 2013, the IRS received a Form 8940 "Request for Miscellaneous Determination" from a small organization, the Center for Excellence in Higher Education (CEHE), which had originally been incorporated in Indiana in 2006. CEHE asked the IRS to approve the organization's shift from being considered tax-exempt as a charity to being considered tax-exempt as an educational organization. The law firm submitting the request explained that the change was being requested because CEHE had acquired a set of for-profit colleges owned by Carl Barney or by trusts of which he is the sole beneficiary.

The materials submitted to the IRS describing the organizational changes that were involved in the purchase of Carl Barney's colleges run more than five hundred pages. Within the IRS documents examined for this report, there is no indication that the IRS has verified that the purchased colleges are following the rules of nonprofit governance. The colleges, nonetheless, now describe themselves as dedicated to putting students first because they are nonprofit. Carl Barney's colleges were valued at $636,147,213 for the purposes of the purchase by CEHE. Of this amount, $431 million was incorporated into interest-bearing notes committing CEHE to pay Barney over time, and the remaining $205 million was considered a tax-deductible contribution from Barney to the nonprofit.

As part of the transaction, Barney became the "sole member" of the CEHE corporate entity, with "the right, inter vivos or by testament, to transfer such membership to another person," according to the CEHE's revised articles of incorporation. The revised bylaws state further that Barney, as the sole member, had the authority to name and remove board members. In other words, Carl Barney, who is owed $431 million by CEHE, fully controlled the supposedly nonprofit CEHE. On September 16, 2015, Barney filed a change in the CEHE articles of incorporation with Indiana secretary of state adding two additional members: Peter LePort and C. Bradley Thompson.

The various campuses owned by CEHE earn revenue of about $200 million per year, largely from federal programs that are funded by U.S. taxpayers. The various schools run by CEHE have recently come under fire. In 2014, the U.S. Department of Justice joined in a lawsuit against Stevens-Henager College, alleging that the school was using improper bonuses to pay its recruiters.[36] In December 2014, Colorado officials sued CollegeAmerica over misleading advertising.[37] In June 2015, several CollegeAmerica schools were placed on probation by their accreditor, based on concerns about low job placement rates.[38] And as of September 9, 2015, the Department of Education considers CEHE's request to be considered a nonprofit an open case "undergoing substantive review."[39]

Is the $636 million a fair price for Barney's colleges? In response to a request for comment, a CEHE official told The Century Foundation that the amount was reviewed by an independent valuation consultant and that the prior board of CEHE were not paid in the sale. Yet according to the organization's financial statements, the bulk of the price, $419 million, was not for tangible assets, but instead for the colleges' supposedly valuable reputations (accountants apply the term "goodwill" to the difference between a business's purchase price and the fair market value of the tangible assets). In other words, Barney is being paid and claiming a tax deduction for CEHE acquiring the reputations of colleges that are currently the subjects of multiple government investigations.

According to the organization's Form 990 for 2013, the eleven-member board of CEHE, only two of whom are uncompensated, paid Barney, the chairman of the board, more than $16 million that year: $11,231,444 of the purchase price with interest, $5,097,509 for property leases, and a small salary.

Covert for-profit colleges cost the public by misleading consumers, dodging taxes, and evading regulations that apply to Education Department financial aid. Further, their actions, and the failure of the federal government to address the problem, seriously undermine the integrity of the system of oversight of colleges and universities, as well as of charitable organizations as a whole.

Shortchanging Consumers

Colleges emphasize that they are public or nonprofit because these labels mean something. The labels certify that everything the college does, including how it spends its money, is overseen by trustees who are not seeking personal financial gain. They are vouching for the institution, and they affirm that there are valid educational or other charitable purposes behind every penny spent by the institution.

Placing ultimate control of colleges in the hands of people who do not have a conflict of interest produces better overall outcomes for students and society. For-profit colleges charge higher prices to the neediest students, have higher dropout rates, yield lower earnings for their graduates, and their students have greater difficulty repaying their student loans. In addition, for-profit colleges divert much of their tuition revenue to profit and marketing rather than education. At more than nine out of ten nonprofit institutions, the proportion of tuition revenue that is spent on instruction (actual teaching by faculty) is at least 50 percent. The schools examined in this report all fall far below that mark. Herzing was the highest at 39 percent, with Everglades/Keiser at 31 percent, Remington at 31 percent, and Carl Barney's school's spending only 16 percent of tuition revenue on instruction.[40]

Much of what matters most in education, however, is difficult if not impossible to quantify and measure because it involves the unknown potential futures of students. Colleges operate as nonprofit or public entities to prevent students' futures from being sacrificed to enrich an investor who wants a bigger, faster financial return. Operating as a nonprofit does not guarantee that students are treated well, but it increases their chances by eliminating owner and investor pressures.

All four of the colleges in this report are using their claim to nonprofit status as a marketing tool. But if they are not actually controlled by financially disinterested boards, then that layer of consumer protection is absent, and consumers are being misled.

Hiding from Regulations

As described earlier in this report, for-profit colleges are allowed access to federal financial aid only under particular circumstances.

First, for-profit schools must meet a market test, demonstrating that a portion of their revenue comes from somewhere other than federal aid. Even though this requirement has serious loopholes, many for-profit colleges still come very close to transgressing the 90 percent limit on Department of Education revenue, so the threshold is a serious concern that could motivate schools to seek nonprofit status. And in fact, as noted earlier, Remington was quite open that the 90–10 rule was an impetus for seeking to be considered nonprofit.

Second, programs at for-profit institutions are eligible for Department of Education aid only if they are focused on training for a job, leading to gainful employment. They are not eligible to receive federal funding for programs that focus on less tangible benefits, such as intellectual enrichment—only public and nonprofit institutions are trusted to receive public funding to offer degrees involving broader, less measurable goals.

Covert for-profit colleges that obtain paperwork identifying them as nonprofit institutions, yet fail to follow nonprofit governance structures, are evading these regulatory structures.

The colleges examined for this report have in recent years received a total of more than half a billion dollars every year in Pell Grants and students loans from the Department of Education. They also take in additional funds from other federal and state agencies, as well as additional tuition payments from students and their families.

If the colleges are not truly the nonprofit entities they claim to be, then many of these funds are being claimed inappropriately.

Evading Taxes

While the consumer protection offered by non-owner control is the most critical issue at play, there are two ways that tax laws treat nonprofits differently from for-profit entities. One is that donations to nonprofits can be deducted from the donor's income, reducing his income tax liability. This is a gain that comes not to the college but to the individual making the donation—though obviously the deductibility also helps the institution's fundraising. At least two of the conversions described in this report involved transactions in which the purchasing nonprofit gave the sellers credit for a "donated" portion of the sale price. If the deductions were taken by the sellers involved in the CEHE and Everglades transactions, the forgone federal income tax revenue could total more than $100 million.

The other benefit afforded nonprofit institutions is that their net income—revenue they decide to hold for future charitable purposes—is not subject to corporate income taxes. If the entities examined for this report ultimately have their nonprofit status revoked retroactively, then they will owe back taxes on the net income for every year that nonprofit status was inappropriately claimed. Based on the tax returns examined for this report, this liability could run into the hundreds of millions of dollars.

The four examples of covert for-profit colleges examined in this report should be enough to suggest swift and decisive action by regulatory agencies. The potential for a flood of conversion efforts makes attention to this issue all the more urgent: As recently as June, a lawyer involved in CEHE's purchase of Carl Barney's schools was being touted by his firm as an expert who can help other for-profit colleges avoid regulations and taxes by converting to nonprofit status.[41] With the gainful employment rule having taken effect in July 2015, more for-profit colleges may search for a way to dodge the requirement rather than comply. Indeed, on an investor call in November 2014, executives of one publicly traded company downplayed the coming regulations, explaining that they had options available, including "organizational structural changes, such as moving to a nonprofit model. . . . [W]e currently have a nonprofit entity that could be used in such a transaction."[42]

What follows are recommendations for both the IRS and the Department of Education.

IRS Monitoring and Enforcement

The problem of inadequate oversight of charities by the Exempt Organizations Division of the IRS (caused in part by inadequate funding of the IRS) has been a focus of congressional attention and a recent report by the Government Accountability Office.[43] Among other things, the IRS has committed to refining its targeting of reviews of existing nonprofits so that the most significant hazards are more likely to be addressed in a timely manner. The plans do not go far enough, however, because they take into consideration only the IRS's priorities rather than the interests of other federal agencies that rely on IRS determinations. The issue is not just about charities' assertions that donations will be tax deductible, but also the cascade of events that follows such a determination: the public funding that will be going to the institutions, and students and families taking out student loans and committing time and energy to an education that is not what was advertised.

Because the IRS handles tax documents, it is particularly attuned to issues of privacy. But the work of the Exempt Organizations Division is different because nonprofit organizations are required to have some degree of transparency. Particularly when the tax-exempt status of these organizations opens the door to federal funding, the IRS should work hand-in-hand with the relevant federal agencies to make sure that its determinations about organizations' nonprofit status are accurate, valid, and current, based on information available from all sources.

Education Department Monitoring and Enforcement

It is problematic that the Department of Education has been relying solely on IRS letters to determine a college's eligibility for federal financial aid. The agency's own regulations call for a more rigorous review, requiring colleges that wish to be treated as nonprofit to show, in addition to the IRS designation, that "no part of the net earnings" of the school "benefits any private shareholder or individual," and that the school is authorized as a nonprofit institution by the states in which it operates.[44]

With this in mind, the secretary of education should immediately:

- Aggressively review recent nonprofit conversions to determine regulatory compliance.
- Place a moratorium on Department of Education approval of any additional institutions seeking to be treated as nonprofit.
- Revise the documentation and assertions required of institutions claiming nonprofit status.
- Seek the assistance of states and accreditors to identify any institutions that are claiming to be nonprofit but may be operating in a manner that inappropriately benefits an individual or shareholder.

During the moratorium, the Department of Education and the IRS should develop a joint work plan for the review of nonprofit institutions going forward. The application for access to federal aid (program participation agreement) should require all institutions to attest they are in full compliance with IRS and Department of Education rules regarding nonprofit operations. Internal conflicts of interest and changes in governance should be fully assessed before federal aid is made available to an institution. Finally, any proposed change of ownership involving a nonprofit institution should be subject to public review prior to approval by the department.

It is clear that the 90–10 rule, which applies only to for-profit colleges, is one reason that for-profit college owners are now seeking ways to cloak themselves as nonprofit. In addition to examining more closely any nonprofit conversions, the Department of Education should also monitor for-profit institutions' relationships with scholarship entities to prevent their inappropriate use in the 90–10 calculations. If the 10 percent portion in the 90–10 rule is achieved with funds controlled, directly or indirectly, by the for-profit—such as through an affiliated nonprofit scholarship fund—then the market accountability mechanism is undermined. In addition, Congress may want to consider applying an improved version of the 90–10 rule more broadly. While nonprofit and public institutions typically have far fewer than 90 percent of their students using federal aid, some do price some programs to take maximum advantage of the federal aid that is available. Requiring some market price accountability in those situations is worth considering.

Longer term, the Department of Education should consider whether the determination of a school's eligibility is well placed in its current location at Federal Student Aid (FSA). FSA's primary task is operational, processing millions of FAFSAs and millions of grant and loan payments. The role of policing schools might be carried out more effectively if it was placed at an enforcement entity, such as the Office of Inspector General. While care should be taken not to expect too much from moving organizational boxes, this may be one case where there could be real benefits. The White House might even consider the idea of linking the school eligibility roles of the Departments of Education, Veterans Affairs, Defense, and Labor.

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Robert Shireman is a senior fellow at The Century Foundation working on education policy with a focus on for-profit college accountability, quality assurance, and consumer protections.

1. See Committee on Health, Education, Labor, and Pensions, United States Senate, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (Washington, D.C.: Government Printing Office, July 30, 2012), http://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74931/pdf/CPRT-112SPRT74931.pdf.

2. National Center on Education Statistics, "Undergraduate Enrollment," http://nces.ed.gov/programs/coe/indicator_cha.asp, accessed August 31, 2015.

3. U.S. Department of Education, "Obama Administration Takes Action to Protect Americans from Predatory, Poor-Performing Career Colleges," March 14, 2014, http://www.ed.gov/news/press-releases/obama-administration-takes-action-protect-americans-predatory-poor-performing-career-colleges.

4. Alia Wong, "The Downfall of For-profit Colleges," *Atlantic,* February 23, 2015, http://www.theatlantic.com/education/archive/2015/02/the-downfall-of-for-profit-colleges/385810/.

5. The requirement that nonprofits reinvest rather than distribute profits is known as a "nondistribution constraint." Henry B. Hansmann, "The Role of Nonprofit Enterprise," Yale Law Journal 89, no. 5 (1980): 835–901.

6. Michael Johnston, "Wikipedia Revenue Analysis: How a Wiki Could Make $2.8B a Year," MonetizePros blog, http://monetizepros.com/blog/2013/analysis-how-wikipedia-could-make-2-8-billion-in-annual-revenue/. In comparison, Wikimedia's Form 990 shows revenue of $45 million.

7. Helmut K. Anheier and Jeremy Kendall, "Trust and voluntary organisations: Three theoretical approaches," Working Paper 5, Centre for Civil Society, 2000, http://eprints.lse.ac.uk/29035/.

8. Glenn C. Altschuler and Stuart M. Blumin, *The GI Bill: A New Deal for Veterans* (New York: Oxford University Press, 2009).

9. The 85-15 rule is discussed in a Supreme Court ruling that upheld it, *Cleland v. National Coll. of Business,* 435 U.S. 213 (1978), https://supreme.justia.com/cases/federal/us/435/213/case.html. For a discussion of more recent versions of the rule see Robert Shireman, "Behind the Fraud Charges against ITT Education," *Huffington Post,* May 13, 2015, http://www.huffingtonpost.com/robert-shireman/behind-the-stock-fraud-ch_b_7271134.html.

10. The National Defense Education Act of 1959 defined an eligible institution of higher education as one that is, among other things, a "public or other nonprofit institution." *The National Defense Education Act of 1959,* Public Law 85-864, U.S. Statutes at Large 72 (September 2, 1958), http://www.gpo.gov/fdsys/pkg/STATUTE-72/pdf/STATUTE-72-Pg1580.pdf.

11. *Higher Education Act of 1965*, Public Law 89-329, 89th Cong. 1st sess. (Government Printing Office, 1965), https://bulk.resource.org/gao.gov/89-329/00004C64.pdf.

12. See the history included in the proposed regulation. Department of Education, "Program Integrity: Gainful Employment; Proposed Rule," *Federal Register* 79 (57) (2014): 16426–643, http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06000.pdf.

13. Robert Rothman, "Bennett Asks Congress to Put Curbs on 'Exploitative' For-Profit Schools," *Education Week*, February 17, 1988, http://www.edweek.org/ew/articles/1988/02/17/07450039.h07.html. And American Council on Education, "Bennett Cites Abuses, Defaults at Proprietary Schools *," Higher Education and National Affairs*, February 15, 1988.

14. For more information about the gainful employment rule, which took effect on July 1, 2015, see "Gainful Employment Rule Questions & Answers," Protect Students and Taxpayers website, June 30, 2015, http://www.protectstudentsandtaxpayers.org/wp-content/uploads/2015/06/GainfulEmploymentQA_June-30-2015-_5-pages.pdf.

15.See Career Education Corporation earnings call, November 6, 2014, and Ronald J. Hansen, "GCU Non-profit Would Break New Ground, Enrich Execs," Arizona Republic, January 26, 2015, http://www.azcentral.com/story/money/business/2015/01/17/gcu-non-profit-break-new-ground-enrich-execs/21942343/.

16. Technically, an entity organizes itself as a nonprofit under state law, and seeks from the IRS the additional designation of being a "tax-exempt" nonprofit, one that is not subject to corporate income taxes (because it will be reinvesting its earnings into charitable purposes). Depending on the type of IRS approval, donors may also be able to deduct their contributions from personal income taxes.

17. 26 CFR 601.201(n)(3)(ii).

18. CFR 601.201(n)(6)(i) and (vii).

19. *Partners in Charity, Inc. v. Commissioner* 141 T.C. 151, 141 T.C. No. 2 (2013).

20. U.S. Government Accountability Office, "Tax-Exempt Organizations: Better Compliance Indicators and Data, and More Collaboration with State Regulators Would Strengthen Oversight of Charitable Organizations," December 2014, http://www.gao.gov/assets/670/667595.pdf.

21. Author's communication with staff of the U.S. Department of Education, including a discussion with the Office of the Undersecretary on June 1, 2015.

22. Committee on Health, Education, Labor, and Pensions, United States Senate, *For Profit Higher Education.*

23. Revenue and 90–10 figures were provided by Herzing University in response to a request for comment.

24. Rick Romell, "Herzing University becomes a nonprofit organization," *Milwaukee Journal-Sentinel,* January 2, 2015, http://www.jsonline.com/business/herzing-university-becomes-a-nonprofit-organization-b99419151z1-287365131.html.

25. Letter from Ted Mitchell, undersecretary of education, to Representative Rosa L. DeLauro, September 9, 2015, on file with the author.

26. Goldie Blumenstyk, "Another College Takes the Path From For-Profit to Nonprofit," *Chronicle of Higher Education*, January 20, 2011.

27. See report on Education America (Remington) in Committee on Health, Education, Labor, and Pensions, United States Senate, *For Profit Higher Education.*

28. See discussion on page 96 of the application for tax-exempt status.

See section XXI of the Stephens Retirement Services "Investment Management and Plan Services Agreement," at pages 128-9 of Remington's Form 1023 source document, available online.

30. The revised bylaws give the "sole member" of Remington Colleges, Inc., the authority replace trustees. The sole member is Warren Stephens, through his effective control of The Stephens Charitable Trust. See page 70 of Remington's Form 1023: "The sole member of the College is the Jackson T. Stephens Charitable Trust (the "Trust"), a Sec. 501 (c)(3) organization. Warren Stephens, a member of the Board, is a trustee of, and effectively controls, the Trust."

31. See 2010 Form 1023 in Remington source documents, available online.

32. *International Postgraduate Medical Foundation v. Commissioner,* 56 T.C.M. 1140 (1989).

33. See Shirley Ann Jackson at Rensselaer Polytechnic Institute, in "Executive Compensation at Public and Private Colleges," database at *The Chronicle of Higher Education* (paywall), http://chronicle.com/factfile/ec-2015/#id=18461_194824_2012_private.

34. "Compensation of Chief Executives at Public Colleges, 2013-13," *Chronicle of Higher Education,* June 12, 2015, A31.

35. Paul Fain, "Dropping Profit," *InsideHigherEd,* July 17, 2014, https://www.insidehighered.com/news/2014/07/17/few-profits-have-become-nonprofits-despite-regulatory-environment.

36. David Halperin, "Justice Department Sues For-Profit Stevens-Henager College," *Huffington Post*, June 9, 2014 (updated), http://www.huffingtonpost.com/davidhalperin/breaking-justice-dept-sue_b_5120249.html.

Kieran Nicholson, "CollegeAmerica sued by Colorado AG for 'deceptive trade practices," *Denver Post,* February 17, 2015, http://www.denverpost.com/news/ci_27544803/collegeamerica-sued-by-colorado-ag-deceptive-trade-practices.

38. Letters released by the Accrediting Commission of Career Schools and Colleges, June 17, 2015, http://www.accsc.org/UploadedDocuments/Commission%20Actions/Probation%20Summary%206-17-15.pdf.

Career Education Corp earnings call, November 6, 2014.

U.S. Government Accountability Office, "Tax-Exempt Organizations."

34 CFR 600.2.

EXHIBIT 9

California College San Diego

September 25, 2015

SENT VIA EMAIL

Ms. Torie Smith
The Century Foundation
One Whitehall Street, 15th Floor
New York, NY 10004

Dear Ms. Smith:

On September 22, 2015 you informed me that the Century Foundation would soon publish a report that included information about Center for Excellence in Higher Education, Inc. ("CEHE"). You listed eight statements about CEHE that the Century Foundation planned to include in its report and informed me that CEHE had two days to provide written comments to these statements if CEHE wanted its comments considered before final publication of your report.

Here are the eight statements which the Century Foundation claims to be accurate and truthful, "*based on public information and documents provided pursuant to public records requests to federal agencies.*"

1. In March 2013 CEHE filed a request with the IRS to approve the organization's shift from being considered tax-exempt as a think tank to being considered tax-exempt as a school. The IRS has not approved or denied the request.
2. The colleges purchased by CEHE were valued at $636,147,213. Of this amount, $431 million was incorporated into interest-bearing notes committing CEHE to pay Carl Barney over time, and the remaining $205 million was considered a tax-deductible contribution from Barney to CEHE.
3. As part of the transaction, Barney became the "sole member" of the CEHE corporate entity, with "the right, inter vivos or by testament, to transfer such membership to another person," according to the CEHE's revised articles of incorporation. The revised bylaws state further that Barney, as the sole member, has the authority to name and remove board members.
4. In 2014, the U.S. Department of Justice sued Stevens-Henager College, alleging that the school was using illegal bounties to pay its recruiters.
5. In February 2015, Colorado officials sued CollegeAmerica over misleading advertising.
6. In June 2015, the CollegeAmerica schools were placed on probation by their accreditor, based on concerns about low job placement rates.
7. In 2012, CEHE colleges had cash revenues, not including school loans, of $180,182,000, of which $169,805,000 came from government sources.
8. In 2012, CEHE valued its corporate goodwill at $419 million.

There are significant errors, falsehoods, and misrepresentations in the eight statements you present as facts that the Century Foundation has "*found*" about CEHE.

CEHE's Response to Century Foundation Statements

1. ***In March 2013 CEHE filed a request with the IRS to approve the organization's shift from being considered tax-exempt as a think tank to being considered tax-exempt as a school. The IRS has not approved or denied the request.***

This statement contains false, misleading, and inaccurate information.

1a. CEHE was never considered, registered, or approved by the IRS as a tax-exempt "*think tank*." CEHE has been classified as a tax-exempt public charity since September 4, 2007 and remains classified as a tax-exempt public charity today. CEHE has ***never*** requested a change in its classification from a public charity to a private foundation.

1b. **Your statement that CEHE filed a request with the IRS in March 2013 is inaccurate.** On February 27, 2013, CEHE filed a request with the IRS to evaluate whether donors to CEHE could deduct their contributions under section 170(b)(1)(A)(**ii**) of the IRS Code.

1c. **Your statement that the IRS has not approved or denied a CEHE request is inaccurate**. On July 25, 2014, CEHE received a response from the IRS to CEHE's February 27, 2013 letter acknowledging that CEHE was considered a public charity under 509(a)(1) of the Code and that donors to CEHE could deduct contributions under section 170(b)(1)(A)(ii) of the IRS Code.

2. ***The colleges purchased by CEHE were valued at $636,147,213. Of this amount, $431 million was incorporated into interest-bearing notes committing CEHE to pay Carl Barney over time, and the remaining $205 million was considered a tax-deductible contribution from Barney to CEHE.***

This statement is incomplete, misleading, and inaccurate. CEHE does not have any debt to Carl Barney as an individual.

3. ***As part of the transaction, Barney became the "sole member" of the CEHE corporate entity, with "the right, inter vivos or by testament, to transfer such membership to another person," according to the CEHE's revised articles of incorporation. The revised bylaws state further that Barney, as the sole member, has the authority to name and remove board members.***

Following CEHE's December 31, 2012 transaction, Carl Barney was the sole member of CEHE. Today, however, CEHE has multiple members.

4. ***In 2014, the U.S. Department of Justice sued Stevens-Henager College, alleging that the school was using illegal bounties to pay its recruiters.***

This statement contains false, misleading, and inaccurate information.

4a. The U.S. Department of Justice did not sue Stevens-Henager College. In 2014, a lawsuit against Stevens-Henager College was filed on behalf of the U.S. Government by two relators. Upon review of the relators' complaint, the Department of Justice decided to intervene in a narrow part of the action and declined to intervene in other parts of the action.

The Department of Justice's complaint in intervention is presently subject to multiple CEHE motions for dismissal which are likely.

4b. The U.S. Department of Justice has never alleged that Stevens-Henager College was using "illegal bounties" to pay its recruiters. The Century Foundation's use of this term is pejorative, misleading and defamatory.

The truth is that Justice Department alleges that from July 1, 2007 to May 20, 2009, Stevens-Henager College's compensation practices improperly included the payment of bonuses to admissions personnel when students successfully completed one academic year of college. This allegation is made despite a regulatory Safe Harbor which specifically allowed such compensation.

5. ***In February 2015, Colorado officials sued CollegeAmerica over misleading advertising.***

This statement contains false, misleading, and inaccurate information.

5a. No action, lawsuit, or complaint was filed against CollegeAmerica in February 2015 by Colorado officials or by any other plaintiff.

6. ***In June 2015, the CollegeAmerica schools were placed on probation by their accreditor, based on concerns about low job placement rates.***

This statement contains false, misleading, and inaccurate information.

6a. In June 2015, CollegeAmerica received notice from its institutional accreditor, Accrediting Commission of Career Schools and Colleges (ACCSC), that the following CollegeAmerica campus locations were being placed on probation: Denver, CO, Colorado Springs, CO, Ft. Collins, CO, and Cheyenne, WY. CollegeAmerica's other campuses in Phoenix, AZ, Flagstaff, AZ, and Idaho Falls, ID were ***not*** placed on probation.

Additionally, none of CollegeAmerica's programmatic accreditors have placed any campus on probation. CollegeAmerica is presently appealing ACCSC's probation decision.

7. ***In 2012, CEHE colleges had cash revenues, not including school loans, of $180,182,000, of which $169,805,000 came from government sources.***

This statement contains false, misleading, and inaccurate information.

7a. The numbers quoted above are inaccurate. CEHE colleges' cash revenues for 2012 totaled approximately $187 million, of which approximately $158 million came from Federal Title IV government financial aid programs.

8. ***In 2012, CEHE valued its corporate goodwill at $419 million.***

Of the eight statements made by the Century Foundation, this statement is accurate.

In an effort to provide you a more complete and comprehension picture of CEHE, consider the following. CEHE, a section 501(c)(3) public charity, was established in 2007 by philanthropists who had donated millions of dollars to U.S. colleges and universities and were concerned about the state of higher education in this country.

CEHE's principal purpose, as described in its Application for Exemption as an Organization described in Section 501(c)(3) of the Internal Revenue Code (the "Code"), was to educate the public about higher education in America and to help donors promote excellence in higher education through philanthropy. Those founders believed that through effective philanthropy, due diligence, proper governance, and management accountability, America's colleges and universities could be transformed into high-performing institutions that prepare today's students to be tomorrow's leaders.

From 2007 until 2012, CEHE conducted a series of research programs and supported faculty interested in improving higher education at colleges and universities around the country and internationally. CEHE also engaged in several research projects, acting in the background to help philanthropists who wanted to promote structural reform of higher education more generally.

In 2012, Fred Fransen, the Executive Director of CEHE and a philanthropic advisor, approached the colleges' stockholder, Carl Barney, and suggested a merger with the colleges. The CEHE Board of Directors saw this as a beneficial opportunity. Mr. Barney wanted the colleges to become nonprofit institutions to better carry out his philanthropic goals and the mission of the colleges to better serve their student bodies. Mr. Barney also shared much of the same vision for higher education as the founders of CEHE.

On December 31, 2012, CEHE merged with and now operates the colleges as nonprofit institutions organized and operated exclusively for educational purposes. The IRS was provided with all relevant documents pertaining to the merger. CEHE was and remains a public charity compliant with the requirements of section 501(c)(3) of the IRS Code.

The merger of these colleges with an existing and unaffiliated nonprofit entity differs materially from other for-profit to nonprofit college transactions. CEHE's transaction differs as follows:

1. Prior to the transactions, the Board of Directors of CEHE had no relationship whatsoever with Mr. Barney or anyone else at the colleges. The negotiations for the merger were conducted at arms-length between CEHE and the stockholder of the colleges, Mr. Barney.

2. The CEHE Board, as well as its separate counsel, independent accountant, and independent valuation consultant, reviewed the form and amount of the consideration proposed to be paid by CEHE for the colleges as well as the terms and conditions of the merger transactions as a whole.

3. Aided by an independent appraisal, related valuations and other appropriate data and its due diligence, the CEHE Board determined that:

    a) the merger transaction provided CEHE not only with fair market value, but a "bargain sale";

    b) the transactions, taken as a whole, provided CEHE with a discount reflecting a substantial charitable contribution to CEHE by Mr. Barney of more than $200 million;

    c) Mr. Barney took no fees of any kind, including management fees; and

    d) the leases of land and buildings by the colleges were continued at the same fair market value rates as in place prior to the transaction.

4. The CEHE transaction resulted in real changes, and the colleges operate as a bona fide public charity:

    a) The members of the historical, independent Board of CEHE remained on the Board after the transactions; no monies were paid to the CEHE Board for the transactions;

    b) CEHE's colleges have not raised tuition since their conversion to nonprofit;

    c) A substantial contribution of over $200 million was made to CEHE;

d) As part of the merger, Mr. Barney has personally contributed accounts receivable valued at approximately $24 million along with an additional cash contribution of $10 million to CEHE;

e) Subsequent to the merger, Mr. Barney has personally continued to make substantial charitable donations to CEHE of about $5 million dollars;

5. Since the merger, CEHE has awarded grants of nearly $7 million dollars to other unaffiliated colleges, universities and charitable organizations;

   a) CEHE provides numerous scholarship programs to assist students with paying for college;

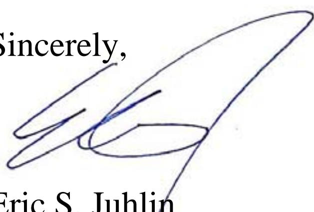
   b) The debt issued by CEHE to finance the merger was deeply subordinated to ensure that CEHE would remain financially sound and bears interest at a below market rate of only 1% annually; and

6. There are no management contracts, non-compete agreements or any other agreements wherein Mr. Barney or any person related to him profits personally from the colleges or CEHE.

Unfounded allegations have been made that the merger was done solely to evade regulations. This is not the case for CEHE or the colleges. For example, the colleges have maintained compliance with the 90:10 Rule, even though they are no longer bound by it. Further, CEHE recently received favorable determinations in a program review, closing all matters that the Department of Education had previously indicated were causes for concern.

Ms. Smith, unfortunately there has been and continues to be a politicized campaign to discredit lawful conversions to nonprofit. We think the credibility of the Century Foundation's report is important to you and its recipients; therefore, we have taken the time to provide the above truthful information. If you would like to verify the truth of anything else, do not hesitate to contact me.

Sincerely,



Eric S. Juhlin
Chief Executive Officer
801-281-7603 direct
Eric.juhlin@collegeamerica.edu

EXHIBIT 10

National Center for Education Statistics [1] Graduation rates (150% of normal time) for CEHE and California 2-year Public Colleges as of August 2014			
UnitId	**Rank**	**Institution name**	**Grad Rate (%)**
117803	NA	Los Angeles County College of Nursing and Allied Health	N/A
123493	1	Charles A Jones Career and Education Center	96.9
371690	2	Downey Adult School	96.4
383084	3	Hacienda La Puente Adult Education	76.3
413802	4	East San Gabriel Valley Regional Occupational Program	71.9
113333	5	De Anza College	59.2
114716	6	Foothill College	55.7
113634	7	Diablo Valley College	39.4
116439	8	Irvine Valley College	39.3
120290	9	Ohlone College	39.0
120342	10	Orange Coast College	38.9
399212	11	Santiago Canyon College	38.5
119137	12	Moorpark College	36.2
113236	13	Cypress College	36.0
111461	14	College of the Canyons	35.9
115126	15	Golden West College	35.0
122205	16	Saddleback College	34.6
366401	17	Las Positas College	34.5
123013	18	Santa Rosa Junior College	33.9
485263	**19**	**California College San Diego**	**33.5**
122889	20	Santa Barbara City College	33.0
112172	21	Citrus College	32.9
118912	22	MiraCosta College	31.8
121044	23	Pasadena City College	31.8
117894	24	Los Medanos College	31.4
119331	25	Napa Valley College	31.3
117195	26	Lake Tahoe Community College	31.2
119164	27	Mt San Antonio College	31.0
444219	28	Folsom Lake College	30.8
122384	29	San Diego Miramar College	30.2
113856	30	East Los Angeles College	29.9
122977	31	Santa Monica College	29.9
123341	32	Sierra College	29.9
110246	33	Butte College	29.8
113980	34	El Camino Community College District	29.7
125499	35	West Valley College	29.5
114433	36	Feather River Community College District	29.2
121901	37	Riverside City College	29.0
119067	38	Monterey Peninsula College	28.9
114859	39	Fullerton College	28.6
113193	40	Cuesta College	28.5
125462	41	West Hills College-Coalinga	28.5
111920	42	Chabot College	28.1

National Center for Education Statistics [1]
Graduation rates (150% of normal time)
for CEHE and California 2-year Public Colleges
as of August 2014

UnitId	Rank	Institution name	Grad Rate (%)
123484	43	College of the Siskiyous	27.9
117706	44	Los Angeles Pierce College	27.9
125028	45	Ventura College	27.7
120971	46	Palomar College	27.6
123563	47	Solano Community College	27.5
110334	48	Cabrillo College	27.1
121363	49	Porterville College	27.1
109208	50	American River College	27.0
122658	51	San Joaquin Delta College	27.0
124113	52	Taft College	26.9
112190	53	City College of San Francisco	26.6
108807	54	Allan Hancock College	26.4
113096	55	Cosumnes River College	26.4
114938	56	Gavilan College	25.7
115393	57	Hartnell College	25.5
123217	58	College of the Sequoias	25.2
113111	59	Crafton Hills College	25.2
121619	60	Santa Ana College	25.2
115861	61	Imperial Valley College	24.9
118930	62	Mission College	24.9
460464	63	Norco College	24.9
117052	64	Reedley College	24.6
448594	65	West Hills College-Lemoore	24.5
126119	66	Yuba College	24.1
109350	67	Antelope Valley College	23.8
119216	68	Mt San Jacinto Community College District	23.8
122180	69	Sacramento City College	23.8
117247	70	Laney College	23.7
114266	71	Evergreen Valley College	23.6
117645	72	Long Beach City College	23.5
118347	73	College of Marin	23.2
122375	74	San Diego Mesa College	23.2
120421	75	Oxnard College	23.1
109819	76	Bakersfield College	23.0
460394	77	Moreno Valley College	22.9
112561	78	Columbia College	22.8
122746	79	San Jose City College	22.7
113573	80	College of the Desert	22.5
117690	81	Los Angeles Harbor College	22.2
115296	82	Grossmont College	21.6
117724	83	Los Angeles Trade Technical College	21.3
117733	84	Los Angeles Valley College	21.1
113218	85	Cuyamaca College	20.7

National Center for Education Statistics [1] Graduation rates (150% of normal time) for CEHE and California 2-year Public Colleges as of August 2014			
UnitId	**Rank**	**Institution name**	**Grad Rate (%)**
123527	86	San Bernardino Valley College	20.7
111939	87	Chaffey College	20.5
108667	88	College of Alameda	20.4
121886	89	Rio Hondo College	19.6
123299	90	Shasta College	19.4
111896	91	Cerro Coso Community College	19.3
112826	92	Contra Costa College	19.3
118718	93	Merced College	19.1
118976	94	Modesto Junior College	19.0
123800	95	Southwestern College	18.6
118684	96	Mendocino College	18.5
120953	97	Palo Verde College	18.5
115001	98	Glendale Community College	18.1
114789	99	Fresno City College	17.8
455512	100	Woodland Community College	17.7
125170	101	Berkeley City College	17.1
395362	102	Copper Mountain Community College	16.9
117788	103	Los Angeles City College	16.9
112385	104	Coastline Community College	16.5
122791	105	College of San Mateo	16.2
123509	106	Skyline College	16.2
117867	107	Los Angeles Mission College	16.0
111434	108	Canada College	15.9
117274	109	Lassen Community College	15.7
125471	110	West Los Angeles College	15.5
125091	111	Victor Valley College	15.2
117715	112	Los Angeles Southwest College	15.0
111887	113	Cerritos College	14.9
122339	114	San Diego City College	14.3
121707	115	College of the Redwoods	11.0
112686	116	El Camino College-Compton Center	11.0
118772	117	Merritt College	10.5
109907	118	Barstow Community College	9.3
Average for California 2-year Public Colleges			**27.4**
485263	**19**	**CEHE's California College San Diego**	**33.5**
Percentage Difference			**22.1%**

[1] Data from National center for Educational Statistics:

https://nces.ed.gov/ipeds/datacenter/Institutionbyname.aspx

Summary data for Title IV Partipating, Public 2-year, and CEHE Colleges

Graduation rate is 150% of normal time reported in 2014

National Center for Education Statistics [1] Graduation rates (150% of normal time) for Salt Lake City 2-year Public College and CEHE as of August 2014			
UnitId	**Rank**	**Institution name**	**Grad. Rate (%)**
438151	**1**	**Stevens-Henager College - Murray**	**28.8**
230746	2	Salt Lake Community College	15.9
Percentage Difference			**81.1%**

[1] Data from National center for Educational Statistics:

https://nces.ed.gov/ipeds/datacenter/Institutionbyname.aspx

Summary data for Title IV Partipating, Public 2-year, and CEHE Colleges

Graduation rate is 150% of normal time reported in 2014

National Center for Education Statistics [1] Graduation rates (150% of normal time) for CEHE and Arizona 2-year Public Colleges as of August 2014			
UnitId	**Rank**	**Institution name**	**Grad. Rate (%)**
103945	**1**	**CollegeAmerica-Flagstaff**	**46.4**
474890	**2**	**CollegeAmerica-Phoenix**	**37.4**
104577	3	Eastern Arizona College	35.8
442781	4	Tohono O'Odham Community College	31.0
104425	5	Cochise County Community College District	23.0
364025	6	Chandler-Gilbert Community College	20.1
106148	7	Yavapai College	19.0
364016	8	Paradise Valley Community College	17.8
104346	9	Central Arizona College	17.7
105145	10	GateWay Community College	17.5
105747	11	Scottsdale Community College	16.5
104160	12	Arizona Western College	16.5
105792	13	South Mountain Community College	16.5
104708	14	Glendale Community College	14.9
105154	15	Mesa Community College	14.3
384333	16	Estrella Mountain Community College	12.5
105428	17	Phoenix College	12.3
105206	18	Mohave Community College	11.5
105525	19	Pima Community College	11.1
404426	20	Coconino Community College	6.0
105349	21	Northland Pioneer College	5.1
105668	22	Rio Salado College	4.4
Average for Arizona 2-year Public Colleges			**16.2**
Average for CEHE's CollegeAmerica			**41.9**
Percentage Difference			**159.0%**

[1] *Data from National center for Educational Statistics:*

https://nces.ed.gov/ipeds/datacenter/Institutionbyname.aspx

Summary data for Title IV Partipating, Public 2-year, and CEHE Colleges

Graduation rate is 150% of normal time reported in 2014

National Center for Education Statistics [1] Graduation rates (150% of normal time) for CEHE and Colorado 2-year Public Colleges as of August 2014			
UnitId	**Rank**	**Institution name**	**Grad. Rate (%)**
128151	1	Pickens Technical College	76.7
128258	2	Trinidad State Junior College	40.4
448761	**3**	**CollegeAmerica-Fort Collins**	**39.4**
448752	**4**	**CollegeAmerica-Colorado Springs**	**39.3**
127778	5	Otero Junior College	35.5
127389	6	Lamar Community College	32.5
126748	7	Colorado Northwestern Community Co	30.4
127732	8	Northeastern Junior College	29.7
127617	9	Morgan Community College	28.4
127909	10	Red Rocks Community College	26.2
126207	11	Aims Community College	25.5
126872	**12**	**CollegeAmerica-Denver**	**21.3**
127200	13	Front Range Community College	19.5
127884	14	Pueblo Community College	19.4
126289	15	Arapahoe Community College	18.5
126863	16	Community College of Aurora	18.4
127820	17	Pikes Peak Community College	12.0
126942	18	Community College of Denver	10.1
Average for Colorado 2-year Public Colleges			**28.2**
Average for CEHE's CollegeAmerica			**33.3**
Percentage Difference			**18.1%**

[1] *Data from National center for Educational Statistics:*

https://nces.ed.gov/ipeds/datacenter/Institutionbyname.aspx

Summary data for Title IV Partipating, Public 2-year, and CEHE Colleges

Graduation rate is 150% of normal time reported in 2014

EXHIBIT 11

Rev. Rul. 76-91, 1976-1 C.B. 150

Proprietary hospital acquired by nonprofit corporation. The purchase, in a transaction not at arm's length, of all of the assets of a profit-making hospital by a nonprofit hospital corporation at a price that includes the value of intangible assets, determined by the capitalization of excess earnings formula, does not result in the inurement of the hospital's net earnings to the benefit of any private shareholder or individual or serve a private interest precluding exemption under section 501(c)(3) of the Code.

Advice has been requested whether a nonprofit hospital that acquires certain property in the manner and under the circumstances described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The owners of X hospital, a profitmaking institution, created Y, a nonprofit corporation, to purchase and operate the hospital. Over one-half of the board of directors of Y consists of stockholders in X. Although Y will operate the hospital in a charitable manner in accordance with section 501(c)(3) rather than on a proprietary basis, the operation of the facility and the type of service provided will remain essentially unchanged.

Y's creating instrument meets the organizational requirements of section 1.501(c)(3)-1(b) of the Income Tax Regulations, including the limitation of its purposes to those described in section 501(c)(3) of the Code and the dedication of its assets to such purposes.

In order to establish the selling price of the hospital, the owners obtained an independent appraisal of the tangible assets and then computed the value of the intangible assets by the capitalization of excess earnings formula as set forth in Rev. Rul. 68-609, 1968-2 C.B. 327. The value of the intangible assets by this method was substantial.

Y purchased the hospital for the price arrived at by the above method. Such price represents the fair market value of the tangible and intangible assets.

Y submitted evidence establishing that the intangible assets have a direct and substantial relationship to the performance of the exempt functions of the hospital.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the regulations defines the term

'private shareholder or individual' as any person having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized exclusively for one or more charitable purposes unless it serves a public rather than a private interest.

Generally, where an organization purchases assets from an independent third party, a presumption exists that the purchase price (arrived at through negotiations) represents fair market value. However, where the purchaser is controlled by the seller (or there is a close relationship between the two) at the time of the sale, this presumption cannot be made because the elements of an arm's length transaction are not present.

In situations where there is common control of or a close relationship between the buyer and seller and both tangible and intangible assets are being purchased, the value of the tangible assets must first be established by independent appraisal. The purchaser must then establish the components of the intangible assets, indicate how these components will be used to further its exempt purposes, and establish the aggregate value of these intangibles.

In the case of a hospital, accreditation for an internship or residency program, good labor relations, an active medical staff, and a favorable location, are some factors that might have intangible value and enable a hospital to carry on a public service function more efficiently.

Where an organization claiming exemption from Federal income tax under section 501(c)(3) of the Code purchases intangible assets for a use that is directly and substantially related to its exempt purpose, the capitalization of excess earnings formula is an acceptable method of determining their value. In the present case, Y has established that the hospital it acquired has intangible assets and that the hospital will continue to be operated in a manner to provide essentially the same services it had previously. In these circumstances, the intangible assets will contribute directly and substantially to the accomplishment of Y's exempt purposes, and, therefore, it is appropriate for Y to value them by means of the capitalization of excess earnings formula. Thus, the purchase of the intangible assets of X by Y did not result in the inurement of Y's net earnings to the benefit of any private shareholder or individual, nor did the transaction serve a private rather than a public interest.

Accordingly, Y qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023,

Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.

EXHIBIT 12

Rev. Rul. 76-441, 1976-2 C.B. 147

For-profit school converted to nonprofit school. An otherwise qualifying nonprofit organization that purchases or leases at fair market value the assets of a former for-profit school and employs the former owners, who are not related to the current directors, at salaries commensurate with their responsibilities is operated exclusively for educational and charitable purposes. An organization that takes over a school's assets and its liabilities, which exceed the value of the assets and include notes owed to the former owners and current directors of the school, is serving the directors' private interests and is not operated exclusively for educational and charitable purposes.

Advice has been requested whether the nonprofit organizations described below, which otherwise qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, are operated exclusively for charitable and educational purposes.

Situation 1.

X is the successor nonprofit organization to a former for-profit school. X purchased all of the for-profit school's personal property and leased the land and buildings from the former owners of the for-profit school. The personal property was purchased at fair market value and the rental of the leased facilities is at a fair market rental.

The former owners of the for-profit school are employed by X to reside at the school on a 24 hour basis and provide supervision and care of the students. The salaries paid to the former owners are commensurate with their responsibilities and are reasonable compensation for their services.

None of X's officers or directors is related by blood or marriage to the former owners, nor is any of them a business associate of the former owners.

Situation 2.

Y, a nonprofit organization, received all of the stock in a for-profit school as a gift. Y dissolved the for-profit school and assumed all of its liabilities, including notes owed to the former owners. The financial information indicates that the liabilities of the for-profit school exceeded the fair market value of its assets. Y's Board of Directors is composed of the former owners of the stock of the for-profit school.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In Situation 1, X purchased the former school's personal property at fair market value in an arm's length transaction and is paying a fair rental value for the use of the land and buildings. X has also established that it pays the former owners of the for-profit school reasonable compensation for their services.

Accordingly, X has established that it is operated to serve a public rather than a private interest. Therefore, X is operated exclusively for educational and charitable purposes and qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

In Situation 2, however, the Directors of Y benefitted in their individual capacities from Y's acceptance of a transfer of the stock in the for-profit school and its assumption of all the pre-existing liabilities thereof in connection with its subsequent liquidation. Since these liabilities included the notes owed to such directors and the liabilities of the for-profit school exceeded the fair market value of its assets, the nonprofit school is substantially serving the directors' private interests in honoring them. The directors were, in fact, dealing with themselves and will benefit financially from the transaction. Therefore, Y is not operated exclusively for educational and charitable purposes and does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of Situation 1 of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.508-1(a) and 1.501(a)-1 of the regulations.

EXHIBIT 13

Rev. Rul. 66-219, 1966-2 C.B. 208

An organization, which otherwise meets the requirements for qualification for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, will not be precluded from establishing an exempt status under section 501(a) of the Code merely because the creator of the organization (if a trust) is either the sole or controlling trustee or merely because the organization is controlled by one individual. But see sections 503 and 504 of the Code, providing for denial of exemption of certain organizations described in section 501(c)(3) of the Code because the organization has engaged in a prohibited transaction, as defined in section 503(c), or because of the nonuse or misuse, as provided in section 504(a), of amounts accumulated out of income for purposes or functions constituting the basis for exemption of the organization under section 501(a) of the Code.

From Columbia University's 990 Report

EXHIBIT 14

Part X Balance Sheet

Check if Schedule O contains a response to any question in this Part X . . . . . ☑

Section	Line	Description			(A) Beginning of year		(B) End of year
Assets	1	Cash—non-interest-bearing			0	1	0
	2	Savings and temporary cash investments			825,719,295	2	1,286,707,034
	3	Pledges and grants receivable, net			1,039,384,000	3	978,343,805
	4	Accounts receivable, net			241,100,795	4	278,529,522
	5	Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L			1,475,000	5	1,688,419
	6	Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions) Complete Part II of Schedule L			0	6	0
	7	Notes and loans receivable, net			111,108,803	7	115,695,910
	8	Inventories for sale or use			1,547,000	8	1,879,687
	9	Prepaid expenses and deferred charges			41,433,948	9	38,270,328
	10a	Land, buildings, and equipment cost or other basis Complete Part VI of Schedule D	10a	6,276,608,171			
	b	Less accumulated depreciation	10b	2,381,636,709	3,718,959,273	10c	3,894,971,462
	11	Investments—publicly traded securities			2,737,609,594	11	2,601,291,177
	12	Investments—other securities See Part IV, line 11			4,455,342,462	12	5,078,626,530
	13	Investments—program-related See Part IV, line 11			0	13	0
	14	Intangible assets			0	14	0
	15	Other assets See Part IV, line 11			453,571,679	15	363,473,264
	16	**Total assets.** Add lines 1 through 15 (must equal line 34)			13,627,251,849	16	14,639,477,138
Liabilities	17	Accounts payable and accrued expenses			227,280,816	17	264,758,054
	18	Grants payable			0	18	0
	19	Deferred revenue			239,703,597	19	255,332,844
	20	Tax-exempt bond liabilities			1,333,131,000	20	1,288,657,000
	21	Escrow or custodial account liability Complete Part IV of Schedule D			0	21	0
	22	Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons Complete Part II of Schedule L			0	22	0
	23	Secured mortgages and notes payable to unrelated third parties			0	23	0
	24	Unsecured notes and loans payable to unrelated third parties			202,769,000	24	190,239,233
	25	Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24) Complete Part X of Schedule D			1,066,560,000	25	1,022,899,033
	26	**Total liabilities.** Add lines 17 through 25			3,069,444,413	26	3,021,886,164
Net Assets or Fund Balances		**Organizations that follow SFAS 117 (ASC 958), check here ▶ ☑ and complete lines 27 through 29, and lines 33 and 34.**					
	27	Unrestricted net assets			4,634,928,039	27	5,088,780,879
	28	Temporarily restricted net assets			3,646,550,000	28	4,017,343,216
	29	Permanently restricted net assets			2,276,329,397	29	2,511,466,880
		Organizations that do not follow SFAS 117 (ASC 958), check here ▶ ☐ and complete lines 30 through 34.					
	30	Capital stock or trust principal, or current funds				30	
	31	Paid-in or capital surplus, or land, building or equipment fund				31	
	32	Retained earnings, endowment, accumulated income, or other funds				32	
	33	Total net assets or fund balances			10,557,807,436	33	11,617,590,974
	34	Total liabilities and net assets/fund balances			13,627,251,849	34	14,639,477,138

Stanford University 990 Report

EXHIBIT 15

Part X **Balance Sheet**

Check if Schedule O contains a response or note to any line in this Part X . . . . ☐

Section	Line	Description			(A) Beginning of year		(B) End of year
Assets	1	Cash—non-interest-bearing			167,491	1	197,773
	2	Savings and temporary cash investments			784,275,739	2	630,016,595
	3	Pledges and grants receivable, net			644,811,377	3	711,795,169
	4	Accounts receivable, net			440,131,767	4	540,899,348
	5	Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L			4,560,843	5	10,146,687
	6	Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions) Complete Part II of Schedule L			0	6	0
	7	Notes and loans receivable, net			527,206,208	7	578,481,451
	8	Inventories for sale or use			6,051,425	8	5,613,335
	9	Prepaid expenses and deferred charges			56,171,680	9	62,255,758
	10a	Land, buildings, and equipment cost or other basis Complete Part VI of Schedule D	10a	8,154,354,561			
	b	Less accumulated depreciation	10b	3,595,441,527	4,207,926,735	10c	4,558,913,034
	11	Investments—publicly traded securities			5,545,012,603	11	7,118,193,718
	12	Investments—other securities See Part IV, line 11			19,323,631,791	12	21,010,960,688
	13	Investments—program-related See Part IV, line 11			0	13	0
	14	Intangible assets			0	14	0
	15	Other assets See Part IV, line 11			0	15	0
	16	**Total assets.** Add lines 1 through 15 (must equal line 34)			31,539,947,659	16	35,227,473,556
Liabilities	17	Accounts payable and accrued expenses			1,602,081,261	17	1,443,948,910
	18	Grants payable			0	18	0
	19	Deferred revenue			584,067,049	19	616,574,642
	20	Tax-exempt bond liabilities			1,466,079,607	20	1,501,429,376
	21	Escrow or custodial account liability Complete Part IV of Schedule D			0	21	0
	22	Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons Complete Part II of Schedule L			0	22	0
	23	Secured mortgages and notes payable to unrelated third parties			1,632,353,400	23	1,763,206,815
	24	Unsecured notes and loans payable to unrelated third parties			0	24	0
	25	Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24) Complete Part X of Schedule D			532,261,114	25	681,172,585
	26	**Total liabilities.** Add lines 17 through 25			5,816,842,431	26	6,006,332,328
Net Assets or Fund Balances		**Organizations that follow SFAS 117 (ASC 958), check here ▶ ☑ and complete lines 27 through 29, and lines 33 and 34.**					
	27	Unrestricted net assets			13,485,416,232	27	15,467,693,876
	28	Temporarily restricted net assets			6,612,755,241	28	7,844,163,298
	29	Permanently restricted net assets			5,624,933,755	29	5,909,284,054
		Organizations that do not follow SFAS 117 (ASC 958), check here ▶ ☐ and complete lines 30 through 34.					
	30	Capital stock or trust principal, or current funds				30	
	31	Paid-in or capital surplus, or land, building or equipment fund				31	
	32	Retained earnings, endowment, accumulated income, or other funds				32	
	33	Total net assets or fund balances			25,723,105,228	33	29,221,141,228
	34	Total liabilities and net assets/fund balances			31,539,947,659	34	35,227,473,556

August 16, 2016

Mr. Carl B. Barney
Crystal Bay, NV

Esmond & Associates has prepared the attached Approximate Financial Impact on Carl Barney Resulting from Merger with CEHE ("the schedule") for the period consisting of the years 2012 thru 2015.

The schedule is based upon financial transactions as reflected in the records of Carl Barney, The Carl Barney Living Trust and affiliated entities. We have been engaged and have maintained the bookkeeping and accounting records for Carl Barney and affiliated entities for the full period of 2012 thru 2015; therefore we have full knowledge of the completeness of the information on the schedule.

As we have created the original records used in preparing the schedule, we have not subjected the schedule to audit procedures. We are not independent with respect to Carl Barney and affiliated entities.

Esmond & Associates Inc.

Approximate Financial Impact on Carl Barney[1]
Resulting from Merger with CEHE

(December 31, 2012 - December 31, 2015)

Merger Out of Pocket Costs	**2012**	**2013**	**2014**	**2015**	**Total**
Cash contributions to CEHE	(10,000,000)	(2,000,000)	(3,000,000)	0	(15,000,000)
Rental Abatement From Lease Renegotiations	0	0	0	(3,200,000)	(3,200,000)
Transaction Costs of Merger	(2,000,000)				(2,000,000)
Taxes paid on Merger	(40,000,000)				(40,000,000)
Principal Receipts on Loans to CEHE	0	8,000,000	10,445,000	0	18,445,000
Interest Receipts on CEHE Loans	0	3,200,000	4,200,000	2,100,000	9,500,000
Taxes Paid on Interest Income/Contributions/Rental Abatements	4,500,000	(540,000)	(540,000)	(945,000)	2,475,000
Net Cash	**$ (47,500,000)**	**$ 8,660,000**	**$ 11,105,000**	**$ (2,045,000)**	**$ (29,780,000)**
Foregone Revenue if College Ownership Was Retained					
Forgone Net Income From Colleges		33,500,000	32,100,000	19,200,000	84,800,000
Proforma Taxes on Foregone Net Income From Colleges		(15,075,000)	(14,445,000)	(8,640,000)	(38,160,000)
Net Forgone Revenue	**$ -**	**$ 18,425,000**	**$ 17,655,000**	**$ 10,560,000**	**$ 46,640,000**
Approximate Total Financial Impact to Carl Barney[1]	**$ (47,500,000)**	**$ (9,765,000)**	**$ (6,550,000)**	**$ (12,605,000)**	**$ (76,420,000)**

[1] *Includes Related Entities Owned by Carl Barney*

EXHIBIT 17

AFFIDAVIT OF JOHN S. (JAY) MERCER

Comes now John S. (Jay) Mercer, first being duly sworn upon his oath and under the penalties for perjury states:

1. I am an attorney in good standing and licensed to practice law in the State of Indiana.

2. I have practiced law since 1986, primarily in the areas of healthcare, education and exempt organizations.

3. I have provided legal services to the Center for Excellent in Higher Education, Inc. ("CEHE") since January 2010.

4. In July 2012, I was consulted with regard to a potential transaction involving the Merger of CEHE with Stevens-Henager College, Inc., CollegeAmerica Denver, Inc., CollegeAmerica Arizona, Inc., California College, Inc., California College San Diego, Inc. and CollegeAmerica Services, Inc. ("Colleges").

5. On August 27, 2012, I met with the board of directors of CEHE, including Messrs. Curtis, Dennis and Zywicki. I have attached a copy of the issues agenda as Exhibit 1. During the meeting I explained to the director their fiduciary duties, responsibilities and liabilities involved in the proposed transaction with the Colleges. I stressed the need for a fair market value to guard against the possibility of an excess benefit transaction. I also discussed the due diligence needed to approve the transaction.

6. In October 2012, I received a copy of the "Board of Directors Valuation Presentation" dated October 5, 2012, that had been prepared by Barrington Research Associates. ("Barrington"). I also participated in a 2.5 hour conference call in respect to the valuation

presentation.

7. Following the conference call I recommend to CEHE's board of directors that they obtain an independent peer review of the Barrington valuations. On October, 11, 2012, I engaged Blue & Co., LLC ("Blue"), an organization known to me as specializing the representation of exempt organizations, to perform an analysis and issue an Appraisal Review Report of the assumptions, adjustments, and validity of the methodologies applied by Barrington in the valuation of the Colleges.

8. On September 30, 2012, Blue produced a Summary Appraisal Review Report which is attached hereto as Exhibit 2.

9. Blue concluded that the value of the common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis contained within the Barrington Presentation is likely fairly stated and consistent with fair market value.

10. Leading up to the closing the occurred on December 31, 2012, I devoted approximately 150 hours to conducting a review of the transaction, including the negotiation of terms, review and drafting the transactional documents and due diligence review of disclosures.

11. On October 22, 2012, I was provided electronic access to the CollegeAmerica Data Room which was represented to me to be full access to material contracts, agreements and leases, as well as, descriptions or summaries of consents and approvals, intellectual property rights, benefit plans, insurance policies, financial reports, program audits and pending litigation. ("Disclosures").

12. The Disclosures I reviewed included:

a. Review of the organizational records of each merging corporations and LLCs, including Articles, Bylaws, Resolutions and minutes.

b. Review of financial statements for prior 3 years.

c. Review of any employment agreements with the term in excess of one year.

d. Review of any consulting management or professional agreements a term in

excess of one year.

e. Review of any employment, consulting, management, professional or vendor agreements with individuals "related" to Carl Barney or "related" to any current Board Member, LLC Member and/or highly compensated individuals affiliated with the merger organizations.("Related" means related to each other through family or business relationships).

f. Review of any policies of tenure or policies that restrict "at-will" employment.

g. Review of any notices, claims, audits, or other official notices investigation by the Internal Revenue Service, United Department Education or any State or local regulatory agency which the corporation s or LLCs have received within the last three years.

h. Review of any compliance or settlement agreements with any governmental agency or accrediting organization regarding operational, financial or educational deficiencies or regulatory compliance.

i. Certificates of accreditation from accrediting organizations.

j. Contracts, commitments, notes, debt instruments, security agreements, leases, guarantees that have a term of exceeds one year.

k. Organizational chart for each college.

l. Description of any payments, agreements or pledges for support of political candidate or party or used in support of or to influence legislation.

m. All contracts with any individuals or organizations to raise funds for the corporations. (Professional fund raising).

n. Descriptions of any Joint ventures, partnerships or affiliations with organizations that will not terminate and/or merger on or before the closing of the transition.

o. Description of any intellectual property to be sold as part of the sale.

p. Copies of tax returns for the past three years for each organization being merged.

q. Description of any loan to or by a current or former officer, director, trustee, key employee, highly compensated employee.*

r. Description of any on-going settlement payments or compensation arrangement, such as a severance payment to a former employee that will continue after the merger or are not fully funded.

s. Description of all unfunded and/or uninsured liabilities.

t. Description of any and all pending or threatened litigation.

u. Description of any of the following services provided by the corporations or LLCs to any officer, director or employee: first class or charter travel, travel cost for companions, tax indemnification, housing allowance for personal residence, sports or social club memberships, personal services(e.g. maid, chauffer, chef).

13. This affidavit is offered to counter the allegation by the Department of Education in its letter of August 11, 2016, *"there is no evidence that CEHE - as opposed to Mr. Barney- conducted any valuation of the Colleges before entering into the Merger Agreement and resulting financing which obligated CEHE to $431,000,000 in indebtedness to the Trust with $419,000,000 of that amount representing goodwill."*

14. The statement contained in Section 5.9, *"The Purchaser acknowledges that it has completed limited due diligence review with respect to the Corporation and the College,"* has been misinterpreted by the Department of Education, where the term "limited" was intended to convey a minimum level of due diligence recommend by me in a Memorandum that was presented to the CEHE board of directors following the meeting of August 27, 2012. The Memorandum, while not dated, was prepared August 28, 2012 and is attached hereto and incorporated by reference as Exhibit 3.

15. The minutes of the board meeting dated December 27, 2012 recite that the decision to proceed with the transaction was based on "substantial due diligence." Substantial due diligence was completed by me as has been more fully described above.

16. There exist a rebuttable presumption of reasonableness for this transaction where:

a. The compensation arrangement with Mr. Barney and the Trust and the terms of the property transfer from Mr. Barney and the Trust were approved in advance by the CEHE board of directors and none of the board members had a conflict of interest with respect to the compensation arrangement or property transfer (Treas. Reg. 53.4958-6(a)(1));

b. The board of directors obtained and relied upon appropriate data as to the comparability data prior to making its determination (Treas. Reg. 53.4958-6(a)(2)); and

c. The board of directors adequately documented the basis for its determination concurrently with making that determination (Treas. Reg. 53.4958-6(a)(3)).

17. Treas. Reg 53.4958-6, further provides that presumption that arises under paragraph 6(a) of this section may only be rebutted by establishing sufficient contrary evidence to rebut the probative value of the comparability data relied upon by the authorized body. With respect to any fixed payment (within the meaning of § 53.4958-4(a)(3)(ii)), rebuttal evidence is limited to evidence relating to facts and circumstances **existing on the date the parties enter into the contract** pursuant to which the payment is made (except in the event of substantial nonperformance). With respect to all other payments (including non-fixed payments subject to a cap, as described in paragraph (d)(2) of this section), rebuttal evidence may include facts and circumstances up to and including the date of payment. See § 53.4958-4(b)(2)(i). may only rebut the presumption with sufficient contrary evidence to rebut the probative value of the comparability data relied upon, and only with evidence relating to facts and circumstances **existing at the time of the contract** (for a fixed payment) or at the time of the payment (for a non-fixed payment). (Emphasis added). The Department of Education has improperly used later valuations and subsequent disclosures not available to the board members on December 27, 2012, in concluding that the board failed to act with due diligence in approving the transaction.

John S. (Jay) Mercer

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Sworn to and subscribed in my presence this 17th day of August 2016.

Signature Jennifer S. Galletter

Printed Jennifer S. Galleher

My Commission Expires: 8/17/24 My County of Residence: Hendricks

Prepared by: John S. (Jay) Mercer, #11260-49, MERCER BELANGER, 1500 One Indiana Square Indianapolis, IN 46204

Board of Directors Meeting
Special Agenda for Review of Merger Transaction:

1. MERCER BELANGER- Representation of CEHE
   - Potential conflicts
   - Representation of decision makers
   - Trust/Skepticism
   - Ask tough questions
   - Due Diligence

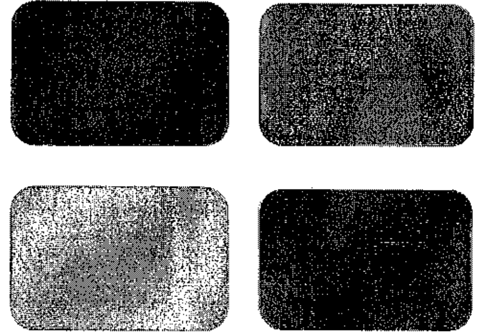
2. Initial concerns –
   - Do not know Carl Barney – reliance upon Fred Fransen
   - Agreement time table
   - Financing method not decided
   - Representations and warranties from CEHE
   - Assurances, surety, continuation from Carl Barney
   - Conduit – "straw man" transaction

3. Board's Duties/Responsibilities/Liabilities
   - Inurement/ Private benefit
   - Excess benefit rules and intermediate sanctions
   - Personal liability for excess benefits
   - Liability for Transactional Managers

4. Inurement/ Private Benefit
   - Non-profit – purpose and mission
   - Reason for transaction – primary benefit
   - Operation in future/fulfill mission
   - Undue private benefit

5. Excess Benefit
   - FMV valuation
   - Due diligence on valuation
   - Liability vs. good faith
   - Indemnity for potential liability
   - Assurances required and extent of due diligence as Transactional Managers

6. Review of Proposed Structure of Deal
   - Specific concerns



CollegeAmerica

Summary Appraisal Review Report

AS OF SEPTEMBER 30, 2012

Report Date: November 9, 2012

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A. Curriculum Vitae of Responsible Valuation Analyst(s)
B. Barrington Research Associates Board Presentation as of October 5, 2012

CPAS · ADVISORS

Blue & Co., LLC / One American Square, Suite 2200 / Box 82062 / Indianapolis, IN 46282
main 317.633.4705 fax 317.633.4889 email blue@blueandco.com

November 9, 2012

Frederic J. Fransen
Executive Director
Center for Excellence in Higher Education, Inc.
8520 Allison Pointe Blvd., Ste. 220
Indianapolis, IN 46250

Dear Mr. Fransen:

Pursuant to your request, Blue & Co., LLC ("Valuation Analysts") has prepared a review of the Barrington Research Associates ("Barrington") board presentation provided by your legal counsel (the "Presentation"), regarding the valuation of CollegeAmerica (the "Company") on October 5, 2012 with respect to the fair market value of common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis. The appraisal was originally prepared for Center for Excellence in Higher Education, Inc. (the "Purchaser") for potential acquisition of CollegeAmerica.

You and your legal counsel have requested the Valuation Analysts perform an analysis and issue an Appraisal Review Report of the assumptions, adjustments, and validity of the methodologies applied by Barrington in the valuation. We are utilizing the Presentation provided by legal counsel, which has been included as **Appendix B**, to this report.

This letter is intended to provide you with an overview of the purpose and scope of our analyses and conclusions. Please refer to the attached report for a discussion and presentation of the analyses performed in connection with this engagement.

SCOPE AND INTENDED USE OF THE APPRAISAL REVIEW

Reporting Format

Our analysis and report is intended to be in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by the Appraisal Foundation,[1] the ethics and standards of the ASA, IBA and NACVA[2] and with IRS business valuation development and reporting guidelines.

[1] The Appraisal Standards Board (ASB) of the Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. The Appraisal Foundation is authorized by Congress as the source of Appraisal Standards and Appraiser Qualifications. USPAP uses the terms appraiser and appraisal report. SSVS uses the terms valuation engagement and detailed report. USPAP also uses the term appraiser while SSVS uses the term valuation analyst. We use these terms interchangeably in this report.

[2] ASA American Society of Appraisers; IBA Institute of Business Appraisers; NACVA National Association of Certified Valuation Analysts.

The scope of our work on this assignment is being performed under Uniform Standards of Professional Appraisal Practice ("USPAP") Standard Rule 3 as an Appraisal Review. Appraisal Review assignment reporting formats are not specifically addressed by USPAP Standard 3, rather the substantive content of the report determines its compliance. In performing an Appraisal Review assignment in accordance with USPAP's Standards and Standard Rules, specifically Standard 3, we must:[3]

- state the identity of the client and any intended users, by name or type;
- state the intended use of the appraisal review;
- state the purpose of the appraisal review;
- state information sufficient to identify:
    - the work under review, including any ownership interest in the property that is the subject of the work under review;
    - the date of the work under review;
    - the effective date of the opinions or conclusions in the work under review; and
    - the appraiser(s) who completed the work under review, unless the identity is withheld by the client.
- state the effective date of the appraisal review;
- clearly and conspicuously:
    - state all extraordinary assumptions and hypothetical conditions; and
    - state that their use might have affected the assignment results.
- state the scope of work used to develop the appraisal review;
- state the reviewer's opinions and conclusions about the work under review, including the reasons for any disagreement;
- when the scope of work includes the reviewer's development of an opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review, the reviewer must:
    - state which information, analyses, opinions, and conclusions in the work under review that the reviewer accepted as credible and used in developing the reviewer's opinion and conclusions;
    - at a minimum, summarize any additional information relied on and the reasoning for the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review;
    - clearly and conspicuously:
        - state all extraordinary assumptions and hypothetical conditions connected with the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review; and
        - state that their use might have affected the assignment results.

Additionally, this Appraisal Review will take into consideration the valuation standards and guidelines set forth within the Statement of Standards for Valuation Services No. 1 (SSVS) of the American Institute of Certified Public Accountants. SSVS defines an appraisal (business valuation) engagement as "an engagement to estimate value in which a valuation analyst determines an estimate of the value of a subject interest by performing appropriate procedures, as outlined in the AICPA Statement on Standards for Valuation Services, and is free to apply the valuation approaches and methods he or she deems appropriate in the circumstances."

[3] USPAP Standard 3, p. U-35.

To gain an understanding of the operations of CollegeAmerica, we analyzed the Presentation, which contained financial information, and/or operational data, and background and industry information. To understand the environment in which CollegeAmerica operates, we researched the status of and trends in the various industries that have an impact on it. We also studied economic conditions as of the Valuation Date and their impact on CollegeAmerica and the industry.

We requested the underlying valuation report summarized in the Presentation from the Purchaser and Barrington, but did not receive such report. Therefore, our review is based solely on information contained in the Presentation. As of the date of the report we do not believe that we will receive any additional information or support for the work contained within the Presentation.

As discussed in this report, we reviewed all valuation approaches and methods considered by Barrington, including the income, asset, and market approaches to derive an opinion of value of the subject. Our conclusion of value reflects these findings, our judgment and knowledge of the marketplace, and our expertise in valuation.

In conducting the Appraisal Review, our investigation and analysis included (but was not limited to) consideration of the following:

- Board presentation regarding the valuation of CollegeAmerica, as provided by Barrington Research Associates
- Federal Reserve statistical releases
- Current and future economic conditions as forecast by various sources
- Miscellaneous other information

The procedures employed in valuing the subject interest in the Company included such steps as we considered necessary, including (but not limited to):

- An analysis of CollegeAmerica's financial information and specific data included in the Presentation
- An analysis of the Company's expectations for future operations and other information as provided within the Presentation
- An analysis of the education industry in general
- An analysis of the general economic environment as of the Valuation Date, including investors' equity and debt-return expectations
- An analysis of other pertinent facts and data resulting in our conclusion of value

DEFINITION AND PREMISE OF VALUE

<u>Terms and Definitions</u>

The standard of value is fair market value, defined as "the price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm's length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts."[4]

[4] International Glossary of Business Valuation Terms.

Fair market value is also defined in Revenue Ruling 59-60 as "the price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts." Revenue Ruling 59-60 also defines the willing buyer and seller as hypothetical as follows: "Court decisions frequently state in addition that the hypothetical buyer and seller are assumed to be able, as well as willing, to trade and to be well informed about the property and concerning the market for such property." Furthermore, fair market value assumes that the price is transacted in cash or cash equivalents. Revenue Ruling 59-60, while used in tax valuations, is also used in many nontax valuations.[5]

Based upon the Presentation, fair market value is defined on slide 70 as "the price at which a willing buyer and a willing seller would enter into a transaction...both parties having full access to all relevant information...and neither party being under duress."

VALUATION REVIEW PROCEDURES

The Valuation Analyst has considered the history, character, and operations of the Company to the extent possible and as provided through the Presentation. In accordance with the requirements of USPAP, the Code of Professional Ethics and Professional Standards of the American Society of Appraisers, the three approaches to value (Cost, Market and Income) were considered.

This valuation review was performed solely to assist in the determination of the reasonability of the concluded value contained within the Presentation, and the resulting opinion should not be used for any other purpose or by any other party for any purpose, without our express written consent.

We have made our best efforts to ensure that our analysis and report are in conformance with the USPAP promulgated by the Appraisal Foundation,[6] the ethics and standards of the ASA, IBA and NACVA[7] and with IRS business valuation development and reporting guidelines.

VALUATION REVIEW CONCLUSION

In arriving at our review opinion, we noted some issues with the Presentation that we believed required further scrutiny. These issues included:

- The Cost Approach was not discussed.
    - Additionally, the Presentation did not include the Company's balance sheet.
- Certain "add-backs" to the income statements had no detailed explanation as to their nature or reasoning for the add backs.

---

[5] Fair Market Value is further defined by § 1.170A-1(c)(2) Internal Revenue Service Code of Federal Regulations.

[6] The Appraisal Standards Board (ASB) of the Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. The Appraisal Foundation is authorized by Congress as the source of Appraisal Standards and Appraiser Qualifications. USPAP uses the terms appraiser and appraisal report. SSVS uses the terms valuation engagement and detailed report. USPAP also uses the term appraiser while SSVS uses the term valuation analyst. We use these terms interchangeably in this report.

[7] ASA American Society of Appraisers; IBA Institute of Business Appraisers; NACVA National Association of Certified Valuation Analysts.

- Given the information provided within the Presentation, the discount rate utilized under the Income Approach was lower than what we might have expected.
    - Two different betas and a "regulatory premium" were applied with no explanation contained within the Presentation.
    - It appears that no adjustment was made for Company specific risk.
- A capitalization of benefits method was not discussed or included within the Presentation.
- No industry methods or rules of thumb were discussed or included within the Presentation.
- The conclusion of value contained within the Presentation was expressed as the weighted average of three methods.
    - Despite the fact that this practice is contrary to Revenue Ruling 59-60, no explanation is provided for the use of weighting of the three methods.

We have also considered certain other areas of interest within our review report; however we believe that the points listed above are of primary concern. That being said and considering the limitations of the nature and amount of information included in a presentation format as opposed to a fully-contained appraisal report as defined by SSVS-1, we cannot draw any conclusions as to the effect of the underlying information that we did not receive. Noting certain factors, assumptions, and differences in theory and based upon the analyses performed, we have recalculated the potential value of the Company under the methods utilized in the Presentation.

	Value (Presentation)	**Recalculated Value (Review)**		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Range ($ in millions)		**$511,300**	**-**	**$680,000**

Based upon the table above, it appears that the estimated fair market value for the Company shown on slide 71 of the Presentation is consistent with our overall range of recalculated value. Therefore, excluding those points noted previously, it is our opinion that the conclusion of value of the common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis contained within the Presentation is likely fairly stated and consistent with fair market value. Since we have not received all the information we requested or discussed certain issues with the original appraisal firm, our opinion is limited to the information available and should new information be received, our conclusion could change.

VALUATION REVIEW TERMS AND CONDITIONS

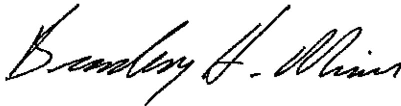
The analyses used in this report are based on estimates, assumptions and other information provided to us by the representatives of the owners of the Company, Barrington and legal counsel.

Neither the Valuation Analyst nor Blue & Co., LLC has any interest or other conflict which could cause a question as to the independence or objectivity of this appraisal review. Our fee in this matter is not contingent on the outcome of our opinion.

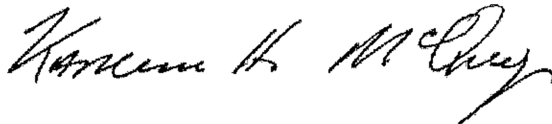
The attached Assumptions and Limiting Conditions, Certifications, and Qualifications of the Valuation Analyst(s) are integral parts of this valuation review opinion.

Distribution of this letter and report and its associated results, which is to be distributed only in its entirety, is for internal use only and intended for and restricted to the Purchaser and legal counsel, and is solely for the purpose mentioned previously. This letter and accompanying report are not to be used with, circulated, quoted, or otherwise referred to in whole or in part for any other purpose or by any other party for any purpose without our express written consent.

Sincerely,



Bradley H. Minor, CPA/ABV/CFF, ASA, CVA, CMEA, Director



Kameron H. McQuay, CPA/ABV, CVA, Director

SUMMARY OF ECONOMIC OVERVIEW & OUTLOOK

In valuing any asset it is important to consider the condition of, and outlook for, the economy or economies of the particular geographic regions in which the asset operates or is located. This analysis of economic conditions and outlook is required because the performance of an asset is affected to varying degrees by the overall trends in the economic environment in which it operates or is located and its value cannot be determined in isolation of these factors.

"In part because of the dampening effect of the higher tax rates and curbs on spending scheduled to occur this year and next, the Congressional Budget Office ("CBO") expects that the economy will continue to recover slowly, with real GDP growing by 2.0% this year and 1.1% next year (as measured by the change from the fourth quarter of the previous calendar year). CBO expects economic activity to quicken after 2013 but to remain below the economy's potential until 2018.

In CBO's forecast, the unemployment rate remains above 8% both this year and next, a consequence of continued weakness in demand for goods and services. As economic growth picks up after 2013, the unemployment rate will gradually decline to around 7% by the end of 2015, before dropping to near 5½% by the end of 2017.

While the economy continues to recover during the next few years, inflation and interest rates will remain low. In CBO's forecast, the price index for personal consumption expenditures increases by just 1.2% in 2012 and 1.3% in 2013, and rates on 10-year Treasury notes average 2.3% in 2012 and 2.5% in 2013. As the economy's output approaches its potential later in the decade, inflation and interest rates will rise to more normal levels."[8]

SUMMARY OF INDUSTRY OVERVIEW & OUTLOOK

Significant Factors Affecting the Industry

We performed research related to the Education and Training Services industry via First Research to verify industry factors considered by Barrington in their valuation of CollegeAmerica.

Based on our research on the education industry, certification classes are driven by employment trends, especially in the medical, high technology, and manufacturing industries, and personal income for more leisure industries (i.e. those that rely on individual desire for self-expression and self-fulfillment, such as yoga, fly fishing, etc.).

Economic recessions can have a mixed impact on this industry. Based on the historical trends noted in First Research, certification class enrollment tends to increase during periods of recessions, as unemployed workers will go back to school to learn new skills. This was noted specifically in a 2008 research report:

[8] Congressional Budget Office *Budget and Economic Outlook: Fiscal Years 2012 to 2022* released on January 31, 2012.

"Swelling Unemployment Could Increase Demand for CTE - Rising US unemployment, which reached 6.7 percent in November 2008 compared to 4.7 percent in November 2007, is likely to boost demand for career and technical education (CTE) programs. The job losses, spread across various sectors, are expected to cause unemployed workers to seek training to learn new skills. Professional associations in hard-hit industries such as real estate have added continuing education courses to reflect changing market conditions."

Meanwhile, leisure studies is a challenge for the education industry, as this type of training is more for outside hobbies, rather than for improvement for potential employment. A recession or high periods of employment leads to a decrease in enrollment, due to the discretionary nature of these courses.

The education industry is heavily regulated at the state and federal level. This includes audits and compliance reviews by the U.S. Department of Education, the Office of Inspector General, and state, guaranty, and accrediting agencies. Accredited schools are able to receive government funding and participate in federal financial aid programs. Increased regulations and compliance requirements and federal funding difficulties increases the risk and uncertainty of the education industry.

Barrington noted that the federal government in the past two years has increased scrutiny and regulatory burdens on the education industry, which was noted in a 2010 research report:

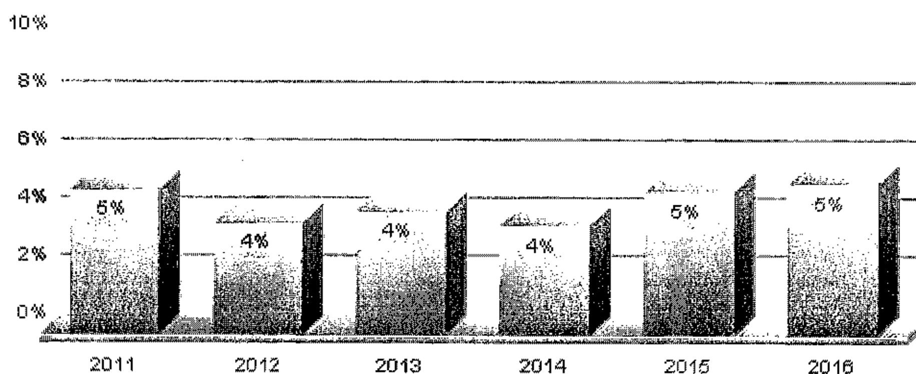
"Financial Aid at For-Profit Schools at Risk - For-profit colleges have come under fire recently from government agencies for leading students to take on heavy debt loads without providing adequate career preparation, according to The Wall Street Journal. The U.S. Government Accountability Office called out 15 such colleges, including two Kaplan campuses, in August 2010 for allegedly giving students misleading loan advice to enroll them. Legislation tying federal aid programs at for-profit colleges to graduates' success in paying off loans could cause some institutions to be ineligible for student aid, resulting in revenue declines."

Finally, due to the continued recession and increased regulations on the education industry, Barrington noted that valuation ratios have decreased in the past few years, which we have noted in our research.

According to First Research, valuation multiples for the education and training services industry have declined between March 2007 (earliest available historical data) and the most recent available data. In data through March 2007, the market value of invested capital ("MVIC") to sales ratio was .9, while the MVIC to EBIT ratio was 3.5. Meanwhile, in data through August 2011, MVIC to sales ratio has fallen to .6, while MVIC to EBIT ratio is now at 3.3. This seems to support the discussion related to valuations and multiples having fallen in the past several years.

However, the industry seems to be recovering and poised for increased growth, based on industry forecasts. The output of U.S. educational services, an indicator for education and training services, is forecast to grow at an annual compounded rate of 4 percent between 2012 and 2016.

Educational Services Growth Recovers



Data Published: September 2012

The following quarterly updates from First Research in 2012 give us additional comfort in the recovery of the education industry, as noted by Barrington in the Presentation:

"Trend: Industry Poised for Moderate Growth - The education and training services industry could grow by 4.3 percent in 2013 compared to 2012, according to the latest industry forecast for First Research from INFORUM. Career technical education (CTE), an important industry segment, will continue to fuel some 29 million middle-class jobs that require a two-year degree or less, according to Georgetown University's Center on Education and the Workforce. Nursing assistants, occupational therapists, paralegals, and refrigeration technicians are among the many opportunities that pay between $35,000 and $75,000 a year."

"For-Profits Exceed Gainful Employment Requirements - For-profit education companies performed better than expected in meeting the US government's new gainful employment guidelines, according to Dow Jones News Service. The Education Department found only 5 percent of programs failed to meet the requirements under the gainful employment regulation. Companies risk losing access to federal student aid if they fail to meet three key measures: loan repayment rates, debt-to-earnings annual ratio, and debt-to-discretionary earnings ratio.

The annual loan repayment rate requires at least 35 percent of a program's former students actively repay their loans, while the debt-to-earnings ratio requires that a student's maximum annual loan payment and student debt not exceed 12 percent of his or her earnings. Some industry observers suggest larger companies like DeVry, Apollo, and Grand Canyon are well-positioned to court new students and stand to benefit the most if smaller programs lose federal aid."

"For-Profits Anticipate Enrollment Boost - For-profit educators anticipate enrollment to taper in 2012 and 2013 before more new students register for classes, according to Dow Jones Newswires. The sector has experienced shrinking enrollment and public scrutiny over educational values, although some institutions have bucked the trend. Strayer Education, which caters chiefly to working adults, saw new-student enrollment grow 12 percent during first quarter 2012, the first quarterly increase since the first half of 2010. The company courted more graduate students and boosted its corporate partnerships. In contrast, ITT – which offers degrees in electronics and industrial design, among other fields – saw new-student enrollment slip 17 percent."

"Online Enrollments Grow - Enrollment in online education continues to outpace the overall higher education student population, according to a recent survey by Babson Survey Research Group and the College Board. More than 6 million students were enrolled in at least one online course in 2011, 10% more than in the previous year. In contrast, overall higher education enrollment grew only 2% during the same period. Nearly two-thirds of higher education institutions cite online education as a critical component to their long-term strategies. Online learning continues to boast vast opportunities for career and technical educators."

REVIEW OF THE BARRINGTON RESEARCH ASSOCIATES VALUATION PRESENTATION

We requested, but were not provided the actual appraisal report prepared by Barrington Research Associates in the valuation of CollegeAmerica. Therefore, we are relying on the information and methodologies outlined in the Presentation, filed at Appendix B, which is summarized as follows:

- Industry Overview
- Historical Financial Statements
- Adjusted Financial Statements
    - Customary Add-backs
    - Marketing Adjustment
- Financial Projections
- Comparable Companies Analysis
- Comparable Transactions Analysis
- Discounted Cash Flow (DCF) Analysis
- Conclusion of Value

Historical Income Statements

We analyzed the summarized historical financial statements shown in the Presentation. We did not perform a review or audit the financial information and are relying on the reported results for the Company as presented.

We reviewed Barrington's adjustments (add-backs) to the historical income statements. The Presentation did not provide any detail related to the reasoning for the add backs noted on slide 14. Typically, these types of adjustments are to remove the effect of non-operating/discretionary and/or non-recurring expense/revenue items.

1. Other revenues – Typically other revenue is a deduction.
2. Bad debt expense, campus start-up costs, good neighbor start-up costs, Esmond & Associates fees, transaction expense, settlements, IT infrastructure expenses, rent for closed campuses – It is unclear why these expenses were added back to the income statements.
3. Legal – other, private office admin, consulting, corporate travel, unallocated call center expenses – These expenses appear to be recurring expenses, as they appear to be incurred every year between 2005 and 2012. There is no explanation as to why these were added back to the operations of CollegeAmerica.

Financial Observations

Barrington summarized several observations regarding CollegeAmerica's historical income statements.

1. Revenues and EBITDA were confirmed to increase approximately 34% and 46% compound annual rate respectively between 2005 and 2010.
2. EBITDA margins were confirmed to be approximately 41% and 39% in 2009 and 2010 respectively.

As noted by Barrington, these growth rates were very high as compared to the industry and would not be sustainable in the long-term.

In our research of margins from benchmark data from IRS Corporate Ratios (Based on 2009 Returns), margins for the Education Services industry for all reporting companies is 13.04% operating profit (EBIT). We then added in depreciation and amortization to arrive at 16.73% EBTIDA margin for IRS benchmarks.

We also looked at data from RMA Annual Statement Studies 2011-2012 for the same industry. RMA only reported EBIT and EBT and did not report individual common size expenses for us to calculate an estimate of EBTIDA. However, RMA operating profit (EBIT) is on average 14.2%, which is comparable to that found in IRS Corporate Ratios.

Finally, commentary in First Research regarding the education industry for "net profit" averages 3%, which would indicate an even lower EBITDA margin. Therefore, the benchmarks above seem to corroborate Barrington's observation that the margins earned in 2009 and 2010 are high and are likely not sustainable in the long-term. By 2012, EBITDA margin had decreased to approximately 21%; while this is below peak margins in 2009 and 2010 it is still above the industry averages noted above.

Barrington noted that CollegeAmerica's cost per lead, cost per interview, and conversion rates in the back half of 2012 are improving and approaching levels in 2009. Longer-term, growth in enrollments, revenues and EBITDA are expected to approach pre-2010 levels. Based on these financial observations and discussions above, we believe this should be reflected in CollegeAmerica's discount rate, which we will discuss later in this report.

Marketing Adjustments

Barrington made a material adjustment related to CollegeAmerica's director of marketing, who assumed sole advertising responsibility from the founder in March 2010. According to the Presentation, the director of marketing "drastically" increased the marketing budget in 2011, which included utilizing funds for ineffective marketing endeavors. Additionally, some funds were spent on services with related parties that might be considered disallowed or otherwise non-operating in nature for valuation purposes.

In March 2012, the director of marketing was terminated and the founder assumed responsibility for marketing again and expenditures and conversion rates appear to have begun to return to historical levels.

This appears to be a relevant adjustment to the historical income statements, due to the unusual and non-recurring nature of the marketing activities and related reduction in revenue. The Presentation discusses the effect of the wayward director of marketing on CollegeAmerica's revenues and expenses.

We believe the concept of the marketing adjustment is valid in terms of valuation methodology and reasonable based on the received facts and circumstances regarding the operations of CollegeAmerica. ***However, without the full valuation report with details on the calculations of the actual numbers related to the marketing adjustment, we cannot comment to the reasonableness of the calculation of the financial implications related to this adjustment shown on slide 14. We have assumed that management and the Purchaser have reviewed the adjustment made by Barrington and it is reasonable and correctly calculated.***

Comparable Company Analysis

Under this method, Barrington has selected a number of publicly traded companies that are similar to the Company in that they provide educational services. The selected companies also appear to be fairly comparable in terms of annual revenue. As a result, we believe that the companies selected are likely appropriate for use under this method.

Through analysis of financial data for these public companies, Barrington has identified certain metrics that have been used to impute a value for the Company. Fourteen companies were specifically identified in the Presentation, with eight being used in application of this method. Additionally, four companies were singled out as being "good comparison companies" based upon qualitative factors (the "Big 4").

The primary bases for comparison of the selected public companies to the Company were the price to earnings ratio, the ratio of equity value to earnings before interest expense, depreciation, and amortization (EBITDA), and the ratio of equity value to sales (net revenue). A summary of this information is presented below (also see slide 30 of the Presentation):

Presenation Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
APEI	22.9	17.1	16.2	13.7	9.3	7.3	6.8	5.7	2.6	2	1.7	1.4
LOPE	21.7	20.9	16.6	14.7	10.7	10.2	7.9	6.7	2.6	2.4	2.1	1.8
CPLA	9.6	9.8	12.1	11.6	3	3.2	3.8	3.7	0.8	0.8	0.8	0.8
APOL	5.4	5.9	8.2	9.3	1.8	2.1	3.1	3.6	0.6	0.6	0.7	0.7
NAUH	12.8	25.5	15.3	12.1	5	7.4	5.7	5.6	0.9	0.8	0.7	0.7
STRA	6.6	7.2	11	11.4	3.4	4	5.7	5.9	1.3	1.3	1.4	1.4
DV	5.9	4.9	7.1	12.2	2.3	3.3	4.6	4.2	0.6	0.6	0.7	0.6
EDMC	2.1	1.8	2.8	6.8	2.6	3.4	4.4	4.1	0.6	0.6	0.7	0.7
Mean	10.9	11.6	11.2	11.5	4.8	5.1	5.3	4.9	1.3	1.1	1.1	1.0
Median	8.1	8.5	11.6	11.9	3.2	3.7	5.2	4.9	0.9	0.8	0.8	0.8
Mean and median	9.5	10.1	11.4	11.7	4.0	4.4	5.2	4.9	1.1	1.0	0.9	0.9
Big 4	16.0	17.7	14.8	13.0	7.1	7.2	6.5	6.0	1.9	1.6	1.5	1.3

Morningstar Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
APEI	23.40				1.7				0.5			
LOPE	20.40				1.6				0.4			
CPLA	18.30				1.8				0.5			
APOL	11.70				0.9				0.3			
NAUH	2.80	19.80				3.0			0.2	0.6		
STRA	15.70				0.8				0.3			
DV	13.60	12.60				2.5			0.6	0.6		
EDMC	12.50	14.40				3.2			0.8	0.7		
Mean	14.8	15.6			1.4	2.9			0.4	0.6		
Median	14.7	14.4			1.6	3.0			0.4	0.6		
Mean and median	14.7	15.0			1.5	3.0			0.4	0.6		
Big 4	15.6	19.8			1.4	3.0			0.3	0.6		

Upon review of the public company data presented above, we believe that there may be some discrepancies between the financial ratios presented and data that we retrieved from the Guideline Company database published by Morningstar. Although Morningstar did not provide all data contained within the presentation, we had retrieved those which were available through reasonable effort.

In order to determine the potential effect of the difference between the Presentation comparable data and the metrics that we had retrieved from Morningstar, we applied the same methodology used in the Presentation to our sampled data.

College of America

Financial metrics	P/E				EV/EBITDA				EV/Sales			
$ in millions	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
Unadjusted metrics	46.7	37.1	21.7	29.5	82.7	66.1	39.0	54.9	240.5	245.3	217.6	246.6
Adjusted metrics	50.5	50.3	35.5	29.5	92.5	91.1	65.0	54.9	248.4	265.0	248.1	246.6

Presenation Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
Mean and median	9.5	10.1	11.4	11.7	4.0	4.4	5.2	4.9	1.1	1.0	0.9	0.9
Big 4	16.0	17.7	14.8	13.0	7.1	7.2	6.5	6.0	1.9	1.6	1.5	1.3

Valuation Indications - M&M

Financial metrics	P/E				EV/EBITDA				EV/Sales				
$ in millions	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	Average
Unadjusted metrics		373.6	246.4	344.0		291.3	202.8	270.0		237.6	201.3	217.3	264.9
Adjusted metrics		506.5	403.1	344.0		401.4	338.0	270.0		256.7	229.5	217.3	329.6

Valuation Indications - Big 4

Financial metrics	P/E				EV/EBITDA				EV/Sales				
$ in millions	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	Average
Unadjusted metrics		655.7	320.6	382.8		477.6	254.5	328.0		398.6	321.0	326.7	385.1
Adjusted metrics		889.1	524.5	382.8		658.2	424.1	328.0		430.6	365.9	326.7	481.1
Average (M&M and Big 4)		606.2	373.7	363.4		457.1	304.9	299.0		330.9	279.4	272.0	365.2

Morningstar Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
Mean and median	14.7	15.0			1.5	3.0			0.4	0.6		
Big 4	15.6	19.8			1.4	3.0			0.3	0.6		

Valuation Indications - M&M

Financial metrics	P/E				EV/EBITDA				EV/Sales				
$ in millions	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	Average
Unadjusted metrics		556.5				196.6				156.4			303.2
Adjusted metrics		754.5				271.0				169.0			398.2

Valuation Indications - Big 4

Financial metrics	P/E				EV/EBITDA				EV/Sales				
$ in millions	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	Average
Unadjusted metrics		734.6				200.7				135.0			356.8
Adjusted metrics		995.9				276.6				145.8			472.8
Average (M&M and Big 4)		760.4				236.3				151.5			382.7

Based upon our understanding of the application of this methodology, it would appear that either a weighted average was applied to the selected comparable company metrics in the Presentation or there is some disconnect between the calculated average valuation indication of $398M (slide 39). As shown above, we have calculated a value of approximately $365M using the same data. Interestingly, when we used the financial metrics that were calculated using the Morningstar data the indicated value was closer to the amount shown in the Presentation (approximately $383M).

	Presentation	Review		
Comparable company analysis - value before merger premium	**$398.8**	**$382.7**		**$365.2**
Times:				
Merger premium - slide 44	40%		40%	
Indicated value - slide 45	$558.3			
Less:				
Indicated value - reviewed calculation		535.8		511.3
Potential net difference ($ in millions)		**22.5**	**-**	**47.1**
Divided by:				
Indicated value - slide 45			558.3	
Potential net difference (%)		**4%**	**-**	**8%**

Our analysis above shows that the potential result of applying the metrics derived from our review of the Presentation could result in a difference in value of between approximately $22.5M and $47.1M; however it is important to note that we generally believe that any two independent valuations that fall within a variance in indicated value of less than 10% are in agreement in regard to their opinion. Since we have estimated that the potential net differences between our reviewed calculations and the indicated value presented in slide 45 of the Presentation to be between 4% and 8%, it is our opinion that the discrepancies noted are likely immaterial.

Control Premium

In the comparable company analysis, Barrington applies multiples from publicly traded companies to CollegeAmerica's financial performance to determine a "minority interest" value of $398.8 million.

To arrive at a control value, as is the case with the purchase of interest of CollegeAmerica, Barrington applies a 40% control premium, based on a range of premium from actual transactions that have occurred in the market. This leads to a value after merger premium of $558.3 million.

The methodology utilized by Barrington is generally accepted by many in the valuation community. These valuators believe that since the valuation multiples are from publicly traded companies, where no one owner has any sort of control, they are based on a minority interest. Therefore, to arrive at a control position value, one must apply a control premium, as is the case in the valuation of CollegeAmerica.

However, many others believe that the public company multiples are neutral in respect to a minority versus control position, and that the determination of whether to include a control premium or minority interest discount is based on the cash flows of the subject company.

Both valuation methodologies related to control premiums from guideline company multiples are accepted within the valuation community and therefore, we believe it is reasonable methodology for Barrington to have utilized.

Comparable Transactions Analysis

Barrington states that under this method, actual transactions of comparable companies were used to obtain transaction multiples that were then applied to certain Company metrics in order to determine a "control sale" value (slide 47). The metrics selected, as shown below, were price to EBITDA and price to revenue.

Generally, when calculating a control value under this methodology, the selected multiples are based upon a market value of invested capital (MVIC) for the comparable company transaction. Barrington has in this case used an equity value for the companies sampled, with the difference being that an equity value includes the structured debt of the company. MVIC on the other hand is the equity value of the company with the structured debt added back.

The theory behind using MVIC to express a control value is that under a control scenario, owners of a company have the discretion to manipulate capital structure to include debt as deemed necessary.

In order to determine the possible effect of using equity value as opposed to MVIC under this method, we recalculated the value of the Company using MVIC to EBITDA and MVIC to sales metrics obtained from the Pratt's Stats database for entities that were as similar in nature to the Company as we could determine. We did not have access to the identical company data that Barrington had used, however we believe that the companies selected were similar enough for purposes of this analysis.

It is important to note that there was a slight difference in our calculation of the price to revenue implied value obtained using the equity value data originally selected by Barrington. The value shown on slide 48 using this metric is between $348.8 and $549.3 million, where we have calculated a value of between $352.3 and $548.6 million; however the difference is in our opinion likely immaterial to our analysis and has been noted to make the reader of this report aware that there is a discrepancy in the table below and the Presentation.

In calculating the implied values below, a 40% discount factor has been applied by Barrington to account for the timing of the transactions used under this method. The Presentation states that the industry has not had significant transaction activity in the most recent periods since the date of the valuation, and the market for similar companies is not nearly as strong as reflected in the data presented. Additionally, Barrington states that the application of this method is subjective (slide 47) in nature and as such, we do not have issue with the fact that the Presentation does not include support for the 40% discount factor or that the factor was used in determining the implied value shown on slide 48.

Based upon the MVIC data that we've used under this method, the implied value range is from $308.0 to $624.1 million. The implied value of $348.8 to $549.3 shown in the Presentation using equity value data is within the MVIC range, and as a result we believe that this range is consistent with our findings despite the difference in the theoretical level of control.

Target Company Name	Acquirer Company Name	Announce Date	Equity Value ($ in millions)	Price / EBITDA	Price / Revenue
Renaissance Learning	Permira Advisors	8/16/2011	$455	11.5	3.3
Nobel Learning	Leeds Equity Partners	5/18/2011	125	7.8	0.5
Laureate Education	S.A.C. Capital	1/28/2007	3,226	14.3	2.8
Education Management	Goldman Sachs & Providence	3/6/2006	3,244	12.6	3.0
Educate	Sterling; Citigroup; Educate	9/25/2006	346	9.5	1.0
eCollege.com	Pearson Education	5/14/2007	504	25.5	9.2
Concorde Career Colleges	Liberty Partners	6/21/2006	109	15.3	1.3
		Mean		13.8	3.0
		Median		12.6	2.8
		Laureate, EDMC & Concorde		14.1	2.4
		Less: 40% discount		60%	60%
		Adjusted multiples		8.4	1.4
		Times: College America metrics		65.0	248.1
		Implied valuation		**548.6**	**352.3**

CompanyName	BusinessDescription	Sale Date	Market Value of Invested Capital (MVIC)	MVIC / EBITDA	MVIC / Sales
Hesser, Inc.	Owner and Operator, Post Secondary Schools (College)	3/13/1998	$15,000,000	8.6	0.9
Western State University of Southern California	Law School	3/1/2001	12,600,000	15.9	1.5
American Education Centers, Inc.	Offers Diploma and Associate Degree Programs	9/2/2003	116,000,000	26.0	5.1
Wyo-Tech Acquisition Corporation	Offers Diploma and Degree Programs in Auto - Diesel Tech	7/1/2002	84,400,000	20.7	2.7
Interboro Institute, Inc.	Owns and Operates a Two-Year College	1/14/2000	672,500	0.5	0.1
U.S. Education Corporation	Owns and Operates Private Career Colleges	9/18/2008	298,185,000	47.6	2.1
Penn Foster Education Group, Inc.	Provider of Consumer-Based Distance Education	12/7/2009	176,264,000	12.3	2.0
Heald Capital, LLC	Offers Certificate Programs and Associate Level Degrees	1/4/2010	440,572,000	11.7	2.4
		Mean		17.9	2.1
		Median		14.1	2.0
		Average of mean and median		16.0	2.1
		Less: 40% discount		60%	60%
		Adjusted multiples		9.6	1.2
		Times: College America metrics		65.0	248.1
		Implied valuation		**624.1**	**308.0**

Under this method, Barrington goes on in the Presentation to show additional EBITDA multiples based upon market intelligence, historical trending and prior offers for the Company. Solely based upon the information contained within the Presentation, the sources and in some cases the meaning of this data is unclear. Although the EBITDA multiples shown are consistent with the transaction data from slide 48, we have no opinion to their reliability absent any further detail from Barrington.

Comparable Transaction Analysis - Review

Education industry transactions		$308.0	$624.1
Market intelligence	from Presentation	520.0	585.0
Historical multiples	from Presentation	455.0	650.0
Offers received	from Presentation	507.0	669.9
Implied valuation (average)		**$539.9**	

As shown above, the net difference in implied value due to the potential variance in our application of MVIC to the equity values used in the Presentation is approximately $4.3 million (slide 52).

Cost of Equity

Barrington utilized the Capital Asset Pricing Model ("CAPM") to determine an appropriate discount rate or required rate of return of an asset. The formula for CAPM is as follows:

$E(R_i) = R_f + (Beta \times RP_m) + RP_s + RP_u$

Where:

$E(R_i)$	=	Expected (market required) rate of return
R_f	=	Rate of return for a risk-free security as of the Valuation Date
Beta	=	Measure of systematic risk
RP_m	=	Equity risk premium for the "market"
RP_s	=	Risk premium for size
RP_u	=	Risk premium for specific company, u stands for unsystematic risk

Barrington CAPM:

Base case: 13.86% = 1.65% + (1.59 x 6.01%) + 2.65%

Low beta case: 13.23% = 1.65% + (0.82 x 6.01%) + 2.65% + 4.00%

The risk free rate (R_f) was based on the 10-year U.S. Treasury yield as of September 30, 2012. Many valuators utilize the 20-year bond rate as a proxy to a risk free security, which as of this date was 2.42%. However, there is debate whether it is more accurate to use a shorter-term Treasury bill or a long-term Treasury bond to represent the risk free rate of return. The Presentation did not outline the reasoning behind the use of a shorter period 10 year yield.

Beta is typically derived from a group of guideline public companies that are similar to the subject company. Beta is representative of industry risk. Barrington utilized betas derived from public companies considered in comparable company analysis, which appears reasonable.

The equity risk premium (RP_m) is often based on Ibbotson *Cost of Capital Handbook* and is currently 6.62%. Barrington on the other hand utilized the equity risk premium from Stern School of Business professor Aswath Damodaran's *Equity Risk Premiums (ERP): Determinants, Estimation and Implications – The 2012 Edition*, which is 6.01%. The source for Barrington's equity risk premium appears to be reputable and reasonable.

The increased risk premium for being a small company versus a large publically traded company is the size premium and is typically derived from Ibbotson, which Barrington has utilized in its discount rate.

Finally, CAPM requires consideration of any risks specific to the subject company. There is little objective data and no quantitative means of establishing the specific risk of a subject company, and it is typically based on judgment and experience. These are any risks in addition to the equity, industry, and size risks outlined above. General factors that should be considered include:

1. Business risk
    a. Size relative to the benchmarks used for earlier risk premiums
    b. Geographical concentration
    c. Management strength and depth
    d. Product line concentration
    e. Customer mixture and reliance
    f. Supplier mixture and reliance
    g. Competitive strengths and weaknesses
    h. Quality and variability of earnings
2. Industry
3. Financial risk
    a. Degree of leverage
    b. Coverage ratios
    c. Liquidity
    d. Access to sources of capital

We noted that Barrington utilized a discount rate based on two scenarios of CAPM with different betas and a Barrington estimate for a "regulatory" premium. No explanation was given for utilizing the two beta scenarios and what the regulatory premium is or how it was calculated.

It appears that Barrington did not include any sort of specific company risk premium that would take into consideration the riskiness of investing in CollegeAmerica specifically. Examples of these risks were discussed above. Given we did not have access to the valuation report underlying the Presentation, we do not know whether Barrington considered any additional specific company risk related to CollegeAmerica that should be incorporated in the discount rate.

Based on the Presentation and our analysis, we believe it is possible that some sort of specific company risk should have been included in the calculation of the discount rate for CollegeAmerica due to factors such as the following:

1. As Barrington noted in the background analysis, CollegeAmerica has experienced high compound growth since 2005, which may not be sustainable.
2. EBITDA margins are very high compared to the industry (30%-40%) versus less than 20% for the industry. These margins are likely not sustainable in the long-term.
3. CollegeAmerica's founder delegated marketing duties to another manager in 2010. As discussed earlier, the marketing manager made several poor decisions in 2010 and 2011, which affected CollegeAmerica's bottom line. Barrington made a marketing adjustment due to the "non-recurring" nature of the reduced revenue and increased expenses. This may indicate issues with management's ability to maintain profitability long-term.

As a measure of how the discount rate used in the Presentation could potentially vary based upon the points raised above, we have recalculated the discount rate using the following assumptions:

- Risk free rate = 20-year US treasury bond rate
- Market risk premium = Ibbotson equity risk premium
- Regulatory risk = no regulatory risk assumed
- Company specific risk = varies by company; a range of 0% to 4% was assumed

As shown in the table below, based upon the assumptions listed above we've selected a discount rate of 16% as opposed to the 14% rate shown on slide 66 of the Presentation.

Cost of Equity - II (Presentation)

	Risk-Free Rate		Beta		Market Risk Premium		Market Discount Rate		Size Premium		Regulatory Premium		Equity Discount Rate
Base case	1.65%	+ (	1.59	x	6.01%	) =	11.21%	+	2.65%	+	0.00%	=	13.86%
Low beta case	1.65%	+ (	0.82	x	6.01%	) =	6.58%	+	2.65%	+	4.00%	=	13.23%
									Selected discount rate			=	**14.00%**

Cost of Equity - II (Review)

	Risk-Free Rate		Beta		Market Risk Premium		Market Discount Rate		Size Premium		Company Specific Risk		Equity Discount Rate
Base case	2.42%	+ (	1.59	x	6.62%	) =	12.95%	+	2.65%	+	0.00%	=	15.60%
Low beta case	2.42%	+ (	0.82	x	6.62%	) =	7.85%	+	2.65%	+	4.00%	=	14.50%
									Selected discount rate			=	**16.00%**

Discounted Future Benefits Method

Barrington applied a five year discrete projection period and a terminal year (operations into perpetuity) in arriving at a value of CollegeAmerica under the DCF method. The five year discrete projection period is based on CollegeAmerica's projections for 2013 – 2017 and additional adjustments for working capital and capital expenditures to arrive at free cash flows of the Practice.

To determine the terminal year value, Barrington applied an EBITDA multiple to projected EBITDA in 2017. The EBITDA multiple of 8.0 was used, which appears high. On Slide 37, the comparable company enterprise value to EBITDA multiples "Mean & Median Index" ranges from 4.0 to 5.2, while the "Big Four Index" ranges from 6.0 to 7.1. It appears that Barrington is utilizing an EBITDA multiple greater than that of industry comparable companies.

We were not provided support for how this multiple was determined in the Presentation. Hence, based on the information received, the multiple may be inflating the concluded value under the DCF method. However, the full valuation report may provide additional information on the reasoning for utilizing this multiple.

As a measure of the potential impact of the difference in discount rate that we have selected in the previous table, and using the upper limit of the industry comparable EBITDA multiples for the "Big Four Index" as shown in the Presentation, we have recalculated the discounted cash flow indication of value for the Company.

Terminal Value Analysis - Review

	2013	2014	2015	2016	2017
EBITDA	$56,456	$82,399	$106,943	$128,923	$146,969
Terminal value multiple					7.1
Terminal value					**$1,043,480**

Cash Flows for DCF Analysis - Review

	Discount Rate	2013	2014	2015	2016	2017
Free cash flows		$32,535	$27,805	$41,247	$53,937	$62,478
Terminal value						1,043,480
Total cash flows		32,535	27,805	41,247	53,937	1,105,958
Mid-point convention		0.5	1.5	2.5	3.5	4.5
PV factor using:	16%	0.9285	0.8004	0.6900	0.5948	0.5128
Discounted cash flows		30,208	22,255	28,461	32,084	567,124
Net present value						**$680,131**

It is important to note that we have also implemented a mid-point convention in the calculation above, where an end-of-year convention was used in the Presentation. Use of a mid-point convention assumes that cash flows for the company are evenly distributed over the course of the year; the end-of-year convention is typically used when cash is received at the end to the year. Based on a typical school year semester system, we have assumed that cash is probably received in a manner somewhat periodically over the course of the year and have thus decided that the mid-point convention may be more appropriate.

Based upon the table above, we have calculated a value of approximately $680 million, compared to the value of approximately $753 million shown on slide 68.

Valuation Conclusion

After determining the value of CollegeAmerica under the Comparable Transaction Analysis, Comparable Company Analysis, and Discounted Cash Flow Analysis, Barrington utilized a weighted average of the three methods, as shown below, to arrive at a conclusion of value for CollegeAmerica:

	Value (Presentation)	**Recalculated Value (Review)**		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Range ($ in millions)		**$511,300**	**-**	**$680,000**

However, Revenue Ruling 59-60 states: "Because valuations cannot be made on the basis of a prescribed formula, there is no means whereby the various applicable factors in a particular case can be assigned mathematical weights in deriving the fair market value. For this reason, no useful purpose is served by taking an average of several factors (for example, book value, capitalized earnings and capitalized dividends) and basing the valuation on the result. Such a process excludes active consideration of other pertinent factors, and the end result cannot be supported by a realistic application of the significant facts in the case except by mere chance."

While Revenue Ruling 59-60 discourages the use of weighting multiple methods, weighting is frequently accepted in the valuation community in general practice. However, the Presentation did not give any support for the weightings used in arriving at the conclusion of value and we, therefore, are unable to determine whether this weighting was reasonable.

The Presentation included a summary of the comparable company analysis, comparable transactions analysis, and the discounted future benefits method. Valuation standards also require the valuator to consider the asset approach, capitalized benefits approach, and rules of thumb/industry methods, in addition those methods shown in the Presentation.

CONCLUSION OF VALUATION REVIEW

In arriving at our review opinion, we noted some issues with the Presentation that we believed required further scrutiny. These issues included:

- The Cost Approach was not discussed.
    - Additionally, the Presentation did not include the Company's balance sheet.
- Certain "add-backs" to the income statements had no detailed explanation as to their nature or reasoning for the add backs.

- The discount rate utilized under the Income Approach was lower than what we might have expected.
    - Two different betas and a "regulatory premium" were applied with no explanation contained within the Presentation.
    - No adjustment was made for Company specific risk.
- A capitalization of benefits method was not discussed or included within the Presentation.
- No industry methods or rules of thumb were discussed or included within the Presentation.
- The conclusion of value contained within the Presentation was expressed as the weighted average of three methods.
    - Despite the fact that this practice is contrary to Revenue Ruling 59-60, no explanation is provided for the use of weighting of the three methods.

We have also considered certain other areas of interest within our review report; however we believe that the points listed above are of primary concern. That being said and considering the limitations of the nature and amount of information included in a presentation format as opposed to a fully-contained appraisal report as defined by SSVS-1, we cannot draw any conclusions as to the effect of the underlying information that we did not receive. Noting certain factors, assumptions, and differences in theory and based upon the analyses performed, we have recalculated the potential value of the Company under the methods utilized in the Presentation.

	Value ($ in Millions)	Recalculated Value		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Recalculated Range		**$511,300**	**-**	**$680,000**

Based upon the table above, it appears that the estimated fair market value for the Company shown on slide 71 of the Presentation is consistent with our overall range of recalculated value. Therefore, excluding those points noted previously, it is our opinion that conclusion of value of the common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis contained within the Presentation is likely fairly stated and consistent with fair market value.

However, we requested additional information and have not received that as of the date of this report. The information requested, but not received may have had a significant impact on our conclusion.

ASSUMPTIONS AND LIMITING CONDITIONS

This valuation review is subject to the following assumptions and limiting conditions:

1) The Appraisal Review analyses arrived at herein are valid only for the stated purpose as of the date of the valuation.

2) Public information and industry and statistical information have been obtained from sources we believe to be reliable. However, we make no representation as to the accuracy or completeness of such information and have performed no procedures to corroborate the information.

3) This report and the analyses arrived at herein are for the exclusive use of our client for the sole and specific purposes as noted herein. They may not be used for any other purpose or by any other party for any purpose. Furthermore the report and analyses are not intended by the author and should not be construed by the reader to be investment advice in any manner whatsoever. The Appraisal Review represents the considered opinion of Blue & Co., LLC, based on information furnished to them by you, Barrington and other sources.

4) Neither all nor any part of the contents of this report (especially the analyses within, the identity of any valuation specialist(s), or the firm with which such valuation specialists are connected or any reference to any of their professional designations) should be disseminated to the public through advertising media, public relations, news media, sales media, mail, direct transmittal, or any other means of communication, including but not limited to the Securities and Exchange Commission or other governmental agency or regulatory body, without the prior written consent and approval of Blue & Co., LLC.

5) Future services regarding the subject matter of this report, including, but not limited to testimony or attendance in court, shall not be required of Blue & Co., LLC unless previous arrangements have been made in writing.

6) We have not visited the premises and we have not made a physical inspection of the property. No investigation of legal fee or title to the property has been made, and the owner's claim to the property has been assumed valid. No land survey has been made. No appraisals of real or personal property have been made by Blue & Co., LLC.

7) No change of any item in this appraisal report shall be made by anyone other than Blue & Co., LLC, and we shall have no responsibility for any such unauthorized change.

8) Unless otherwise stated, no effort has been made to determine the possible effect, if any, on the subject business due to future Federal, state, or local legislation, including any environmental or ecological matters or interpretations thereof.

9) If prospective financial information approved by management has been used in our work, we have not examined or compiled the prospective financial information and therefore, do not express an audit opinion or any other form of assurance on the prospective financial information or the related assumptions. Events and circumstances frequently do not occur as expected, and there will usually be differences between prospective financial information and actual results, and those differences may be material.

10) We have not conducted interviews with the current management of the Entity, or their representatives, concerning the past, present, and prospective operating results of the entity.

11) Except as noted, we have relied on the representations of Barrington and other third parties concerning the value and useful condition of all equipment, real estate, investments used in the business, and any other assets or liabilities, except as specifically stated to the contrary in this report. We have not attempted to confirm whether or not all assets of the business are free and clear of liens and encumbrances or that the entity has good title to all assets.

12) The approaches and methodologies used in our work did not comprise an examination in accordance with generally accepted accounting principles, the objective of which is an expression of an opinion regarding the fair presentation of financial statements or other financial information, whether historical or prospective, presented in accordance with generally accepted accounting principles. We express no opinion and accept no responsibility for the accuracy and completeness of the financial information or other data provided to us by others. We assume that the financial and other information provided to us is accurate and complete, and we have relied upon this information in performing our valuation.

13) The Appraisal Review may not be used in conjunction with any other appraisal or study. The analyses in this report are based on the program of utilization described in the report, and may not be separated into parts. The review was prepared solely for the purpose, function and party so identified in the report. The report may not be reproduced, in whole or in part, and the findings of the report may not be utilized by a third party for any purpose, without the express written consent of Blue & Co., LLC.

14) Unless otherwise stated in the report, the Appraisal Review has not considered or incorporated the potential economic gain or loss resulting from contingent assets, liabilities or events existing as of the valuation date.

15) In all matters that may be potentially challenged by a Court or other party we do not take responsibility for the degree of reasonableness of contrary positions that others may choose to take, nor for the costs or fees that may be incurred in the defense of our recommendations against challenge(s). We will, however, retain our supporting workpapers for your matter(s), and will be available to assist in defending our professional positions taken, at our then current rates, plus direct expenses at actual, and according to our then current Standard Professional Agreement.

16) Any decision to purchase, sell or transfer any interest in the subject entity or its subsidiaries shall be Entity ownership's responsibility, as well as the structure to be utilized and the price to be accepted.

17) The selection of the price to be accepted requires consideration of factors beyond the information we will provide or have provided. An actual transaction involving the subject business might be concluded at a higher value or at a lower value, depending upon the circumstances of the transaction and the business, and the knowledge and motivations of the buyers and sellers at that time. Due to the economic and individual motivational influences which may affect the sale of a business interest, Blue assumes no responsibility for the actual price of any subject business interest if sold or transferred.

18) All facts and data set forth in our letter report are true and accurate to the best of the Blue's knowledge and belief.

19) We have no responsibility or obligation to update this report for events or circumstances occurring subsequent to the date of this report.

20) Our Appraisal Review, shown herein, pertains only to the subject business, the stated value standard (fair market value), as at the stated valuation date, and only for the stated valuation purpose(s).

21) Our report will not be used for financing, or included in a private placement or other public documents and may not be relied upon by any third parties.

22) The report assumes all required licenses, certificates of occupancy, consents, or legislative or administrative authority from any local, state or national government, or private entity or organization have been or can be obtained or reviewed for any use on which the analyses contained in the report are based.

23) Blue & Co., LLC does not consent to be an expert with respect to matters involving the Securities and Exchange Commission. For purposes of this report, the foregoing sentence means that Blue & Co., LLC shall not be referred to by name or anonymously in any filing or document. Should you breach this stipulation and refer to Blue & Co., LLC by name or anonymously, you will amend such filing or document upon written request of Blue & Co., LLC.

24) We express no opinion for matters that require legal or other specialized expertise, investigation, or knowledge beyond that customarily employed by business appraisers.

25) Unless stated otherwise in this report, we express no opinion as to: 1) the tax consequences of any transaction which may result, 2) the effect of the tax consequences of any net value received or to be received as a result of a transaction, and 3) the possible impact on the market value resulting from any need to effect a transaction to pay taxes.

26) All of the assumptions and limiting conditions are in addition to, and not in lieu of, those found in the report body and Certification section of the report

VALUATORS' REPRESENTATION[9]

I certify to the best of my knowledge and belief that:

- The statements of fact contained in this report are true and correct.

- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.

- I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.

- My engagement in this assignment was not contingent upon developing or reporting predetermined results.

- My compensation is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

- My analyses, opinions, and conclusions were developed and this report has been prepared to my best effort to be in conformity with the American Institute of Certified Public Accountants, Uniform Standards of Professional Appraisal Practice, the Business Valuation Standards of the American Society of Appraisers, the Institute of Business Appraisers and the Standards of the National Association of Certified Valuation Analysts.

- The American Society of Appraisers has a mandatory recertification program for all of its senior members. All senior members (ASA designation) signing this report are in compliance with that program.

- No significant professional assistance was provided to the persons signing this report.

[9] Representation in satisfaction of the USPAP Certification requirement.

Additionally, I certify to the best of my knowledge and belief that:

- I am not a party to the transaction, am not related to any party to the transaction, am not married to any person with a relationship to the transaction, am not regularly used by any of the parties to the transaction and do not perform a majority of appraisals for these persons.

- I hold myself out to the public as a valuation practitioner and perform appraisals of privately-held businesses on a regular basis.

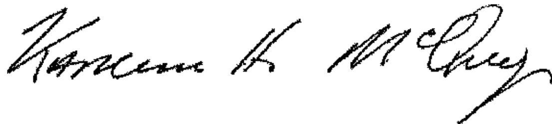
- I am qualified to make appraisals of the type of property being valued including, by background, experience, education, and memberships in professional associations.

- I understand that an intentionally false or fraudulent overstatement of value may subject me to a civil penalty.

- My fee is not based upon a percentage of the appraised value of the property.

Sincerely,

Bradley H. Minor, CPA/ABV/CFF, ASA, CVA, CMEA, Director



Kameron H. McQuay, CPA/ABV, CVA, Director

Appendix A

BRADLEY H. MINOR, CPA/ABV/CFF, ASA, CVA, CMEA

General Data

Indianapolis Business Address:
12800 N. Meridian St., Ste. 400
Carmel, IN 46032-9443

Evansville Business Address:
401 S.E. 6th Street, Suite 204
Evansville, IN 47713

Telephone:
Direct and Fax: 317.428.6841
Cell: 812.455.2030
Email: bminor@blueandco.com
Website: www.blueandco.com

BIO

Brad started with Blue in 1989 with a degree in business (accounting major) from Indiana University. Brad began performing business valuations in 1990. He is a Certified Valuation Analyst (CVA) and an Accredited Senior Appraiser (ASA) – Business Valuation member of the American Society of Appraisers. Additionally, he is a Certified Public Accountant (CPA) and has earned the AICPA's specialty designations for business valuators (ABV) and forensic accountants (CFF). He is also a Certified Machinery and Equipment Appraiser (CMEA) member of the National Business Brokers Association.

Brad was elected to Director in 2008 and has overseen the firm's Valuation and Financial Forensics Group since 1999. He performs business valuations, assists with real estate and machinery & equipment appraisals, and has supported attorneys and clients in various areas of litigation. Brad has given presentations on various topics such as: family limited partnerships, valuing construction companies, valuing professional practices, valuing ESOPs, valuing healthcare entities, business valuation standards and general business valuation topics.

Brad served on the AICPA Business Valuation Committee (2003 through 2007) and has served as a member of the AICPA's "Ask the Experts" Technical Advisory Panel and the "ABV Mentor Program." He has served as chairman of the Litigation Support Group of AGN International – North America. He served on the Editorial Advisory Board and was a frequent contributor of articles to the national publication "National Litigation Consultant's Review." He is the co-author of the June 1997 book entitled "Valuation of a Closely Held Business" for Research Institute of America, a national business publisher.

EDUCATION

Indiana University, Bloomington, IN (Graduated 1989)
BS Business (Accounting Major)

PROFESSIONAL DESIGNATIONS

- Certified Public Accountant (CPA), Indiana, 1992
- Certified Valuation Analyst (CVA), 1994 (National Association of Certified Valuation Analysts)
- Diplomate of the American Board of Forensic Accounting 1997, (The American College of Forensic Examiners)
- Accredited in Business Valuation (ABV), 1998 (American Institute of Certified Public Accountants)
- Accredited Senior Appraiser (ASA) in Business Valuation, 2000 (American Society of Appraisers)
- Certified in Machinery and Equipment Appraisals (CMEA), 2005 (National Equipment & Business Brokers Institute)
- Certified in Financial Forensics (CFF), 2008 (American Institute of Certified Public Accountants)
- Fellow of the American College of Forensic Examiners (FACFEI), 2008 (The American College of Forensic Examiners)

BUSINESS HISTORY

Blue & Co., LLC, Director of Valuation and Litigation Services Department *1990 to Present*
Indianapolis, Indiana and Evansville, Indiana

Brad has been working in the valuation and litigation support services department since 1990 and has overseen the department for the firm since 1999. This department provides a full range of services, including business valuation, insurance loss claims, forensic accounting, budgeting, forecasting, business plans, assisting with real estate and machinery and equipment appraisals, and support to attorneys in virtually all areas of litigation, including expert testimony and consultation. The majority of Mr. Minor's time is spent in this area. Mr. Minor also consults regularly with closely held businesses in all areas of their operations and is responsible for tax consulting and planning for several corporate and individual tax clients.

Blue & Co., LLC, Senior in Tax Department *1989 to 1990*
Indianapolis, Indiana

Experience in the tax department included working directly with clients in planning and compliance with tax laws. Areas of experience include corporate, partnership, and individual taxation, buying and selling of businesses, and divorce taxation issues.

Internal Revenue Service, Internal Revenue Agent *1987 to 1988*
Evansville, Indiana

Held this position originally as a co-op student while attending I.U. and later on a part-time basis during senior year of college. Exposed to all areas within organization including audit, collection, and criminal investigation. Main responsibilities were those of a normal revenue agent, auditing individual and small business tax returns.

ASSOCIATION AND CIVIC MEMBERSHIPS AND ACTIVITIES

- American Institute of CPA's (Business Valuation Exam Review Course Task Force 1998 – 2002, Fundamentals of Business Valuation (FBV) Task Force 2002, Business Valuation Committee 2003 - 2007). Business Valuation Volunteer of the Year Award recipient 2001
- Indiana CPA Society (Litigation Committee 1996)
- Accountants Global Network ("AGN") (Litigation Support Committee 1995/1996, Committee Chairman 1996/1997 and 1997/1998)
- American Society of Appraisers (Indiana Chapter Secretary 1998/1999, 2000/2001; Vice President 2001/2002)
- Member of the Institute of Business Appraisers
- Member of the American College of Forensic Examiners
- Member of the Estate Planning Council of Indianapolis

LECTURES, WRITINGS, SPEECHES, SEMINARS, COURSES, ETC.

- "Valuations A to Z - Part 2, Specific Methods & Techniques", Columbus Bar Association, with Jeffry Moffatt and Gina Grote, Columbus, OH, June 11, 2012.
- "Business Valuation for the Divorce Attorney", Evansville Bar Association, with Jarit Loughmiller, Evansville, IN, March 23, 2012.
- "Estate and Gift Tax Case Update", Hoosier Hills Estate Planning Council, Bloomington, IN, with Dave Maschino, John Kotlarczyk, and Kristine Bouaichi, February 16, 2012.
- "Benchmarking in Physician Practice Valuations", Webinar for The Healthcare Practice Group (HPG) and the National Association of Certified Valuation Analysts, September 30, 2010 and January 27, 2011.
- "BV Practice Management Toolkit" American Institute of Certified Public Accountants, Contributing Author, aicpa.org/FVS, 2009.
- "New Exposure Draft of Proposed Statement on Standards for Valuation Services (SSVS)" Accountant's Global Network Business Valuation Teleconference, December 14, 2006.
- "The Value of Valuations in Healthcare" Ohio Society of CPA's Health Care Conference, with Kam McQuay and Alex Fritz, November 14, 2006.
- "Tips for Starting a BV Practice" Journal of Accountancy, September 2006.
- "ASC's... If You Don't Know What the Acronym Means You Probably Shouldn't Value Them" National Litigation Consultant's Review, March 2006.

- "Review of "The Expert Witness Handbook, Tips and Techniques for the Litigation Consultant" by Dan Poynter", National Litigation Consultant's Review, December 2005.
- Lead editor and reviewer for "Business Valuation Practice Management Toolkit" American Institute of Certified Public Accountants, November 2005.
- "A "Scrushy" Situation", National Litigation Consultant's Review, October 2005.
- "It's a Rate, Rate, Rate, Rate World", National Litigation Consultant's Review, August 2005.
- "AICPA Business Valuation Standards", Accountant's Global Network, North American Regional Meeting, May 18, 2005, St. Louis, MO.
- "Back to the Basics, Legal Lingo 101", National Litigation Consultant's Review, May 2005.
- "How the BV Professional Can Work Effectively with Non-BV Appraisers (Co-Authored with Dr. Brent C Smith)", National Litigation Consultant's Review, March 2005.
- "Seak, Inc.'s "National Guide to Expert Witness Fees and Billing Procedures (Review of)", National Litigation Consultant's Review, December 2004.
- "Expert Preparation of the Expert Witness (a primer for litigation support team members)", National Litigation Consultant's Review, August 2004.
- "New BV Standards and Other AICPA Matters", Accountant's Global Network, North American Regional Meeting, May 25, 2004, Palm Springs, CA.
- "Using Management Planning, Inc.'s Restricted Stock Study", National Litigation Consultant's Review, March 2004.
- "Be Prepared for New AICPA Standards", National Litigation Consultant's Review, February 2004.
- "Litigation Services and Applicable Standards (Review of)", National Litigation Consultant's Review, December 2003.
- "Down on the Farm Damages", National Litigation Consultant's Review, August 2003.
- "Market Approach Methods", Accountant's Global Network, North American Regional Meeting, May 20, 2003, Cincinnati, OH.
- "Library Organization", National Litigation Consultants' Review, May 2003.
- "Come to the Fight Heavily Armed", National Litigation Consultants' Review, March 2003.
- "OneSource", National Litigation Consultants' Review, December 2002.

- "A Time to Shred", National Litigation Consultants' Review, October 2002.
- Review and assistance on "Be a Bulldog", National Litigation Consultants' Review, August 2002.
- "Sweating the Small Stuff", National Litigation Consultants' Review, May 2002.
- "Do I Need to File a Gift Tax Return", Blue Notes, Spring 2001 and The Business Edition (formerly the Columbus Business Scene), July 2001.
- "To ABV or Not to ABV", The CPA Consultant, Newsletter of the AICPA Consulting Services Section, February/March 2001.
- *"Business Killers"*, Indiana's Midwest Builders Convention, February 11, 2000, Indianapolis, IN.
- *"Valuation Case Analysis"*, National Association of Certified Valuation Analysts (NACVA) Indiana Chapter Meeting, Discussion Leader, August 17, 1999, Indianapolis, IN.
- "Internal Revenue Service Acquiesces in Capital Gains Discount Case", Blue Notes, Spring 1999.
- *"The Business of Litigation Support"*, Accountants Global Network (AGN) International World Congress, October 23, 1998, San Diego, CA.
- *"Valuation of Specific Assets"*, Indiana Continuing Legal Education Forum (ICLEF) Selected Topics in Probate Administration, October 17, 1997, Indianapolis, IN.
- Co-author of *"Valuation of a Closely Held Business"*, Research Institute of America, June, 1997, Copyright 1997.
- *"ESOPs Succession Planning"*, NBD Bank, May 1, 1997, Indianapolis, IN.
- *"Tax & Pension Aspects of ESOPs"*, The Indiana ESOP Association Professionals Meeting, March 13, 1997, Indianapolis, IN.
- *"Business Valuation Potpourri"*, Blue & Co., LLC Firmwide Audit and Accounting Training Seminar, September 20, 1996, Indianapolis, IN.
- *"Valuation of Construction Companies"*, Construction Industry Task Force Reunion, AGN, June 15, 1996, Fort Collins, CO.
- *"Valuation of the Practice"*, Indiana Continuing Legal Education Forum (ICLEF) What Happens When the Professional/Executive Dies? Seminar, December 5, 1995, Indianapolis, IN.
- *"Business Valuations"*, American Society of Women Accountants, November 16, 1995, Indianapolis, IN.

- *"Family Limited Partnerships, Brief Overview of Business Valuations"*, Indianapolis Chapter of CLU and ChFC, September 12, 1995, Indianapolis, IN.

- *"What is Litigation Support? Why a Business Valuation?"* Blue & Co. Firmwide Tax Training Seminar, November 20, 1991, Indianapolis, IN.

SELECTED BUSINESS VALUATION AND LITIGATION SUPPORT COURSES AND TRAINING

- American Society of Appraisers, Employee Stock Ownership Plans (ESOP) Valuation Course (BV206); Anaheim, CA, October 1995.
- American Society of Appraisers, Business Valuation Selected Advanced Topics (BV204); Indianapolis, IN April 1995, Passed BV204 Exam.
- National Association of Certified Valuation Analysts, Business Valuation and Certified Valuation Analysts (CVA) Training Program; Salt Lake City, Utah; November 1994.
- Partnerships and Other Pass-Through Entities; New York University, NY; July 1994.
- American Society of Appraisers, Business Valuation Case Study (BV203); Passed BV203 Exam; Denver, CO; May 1994.
- Tax Consequences of Buying and Selling a Business, sponsored by the IU Graduate School of Business; Indianapolis, IN; December 1993.
- AGN Business Valuation Seminar; Passed Introduction to Business Valuation (BV201) and Business Valuation Methodology (BV202) Exams; St. Louis, MO; May 1993.
- AGN, Litigation Support Training Seminar; Denver, CO; September 1992; San Diego, CA, September 1999.

KAMERON H. MCQUAY, CPA/ABV, CVA

General Data

Indianapolis Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.713.7933
Email: kmcquay@blueandco.com
Website: www.blueandco.com

EDUCATION

University of Evansville – Evansville, Indiana
Bachelor of Science – Finance

ACADEMIC HONORS

Graduated with Honors
Guthrie May Award Winner – Most Outstanding Graduate

BUSINESS HISTORY

Blue & Co., LLC, Director — *1992 to Present*

Coordinates services to physicians and their group practices. Responsibilities include development of Firm Marketing and Quality Control System as it relates to physician entities.

Additional responsibilities include corporate compliance activities for both hospital and physicians' organizations, Indiana Medicaid reimbursement issues, operational assessments of healthcare organizations, compliance and HIPAA impact, business valuation for Healthcare facilities, oversight of hospital acquisition programs, as well as a frequent speaker to physician and hospital groups.

Harding Shymanski & Co., Healthcare Professional Division-Manager — *1989 to 1992*

Responsible for all aspects of consulting service engagements including office practice set-up, accounting and financial management issues, coding and reimbursement analysis, billing and collection reviews, adoption of retirement plans and personal financial planning for physicians. Directed the activities of employees in the Healthcare Department.

Harding Shymanski & Co., Staff Accountant *1983 to 1989*

Delivered high quality audit and accounting services to various clients. Managed engagements for small and large audit clients requiring concurrent supervision of multiple engagement teams ranging from two to six professionals. Responsibilities also included the review and preparation of corporate and individual income tax returns.

PROFESSIONAL AND CIVIC MEMBERSHIPS

American Institute of Certified Public Accountants
Indiana CPA Society
National Association of Certified Valuation Analysts
Medical Group Management Association
Indiana Medical Group Management Association
Healthcare Financial Management Association
Indiana University – Purdue University Indianapolis
  Adjunct Faculty, School of Public and Environmental Affairs
Child Advocacy Center
  Past President and Director
Young Life of Evansville
Young Life of Carmel
  Committee Member
Accountants Global Network
  Healthcare Professionals Executive Committee
Carmel-Clay School District
  High School Soccer Coach

Appendix A

JEFFRY M. MOFFATT, CPA/ABV/CITP, CVA

General Data

Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.275.7405
Email: jmoffatt@blueandco.com
Website: www.blueandco.com

EDUCATION

Indiana University, Kelley School of Business
Master of Professional Accountancy
Bachelor of Science in Business – Computer Information Systems

BUSINESS HISTORY

Blue & Co., LLC, Manager — *2008 to Present*

A member of the Valuation and Healthcare Strategy Group primarily focused on the analysis and development of methods for aligning hospitals, healthcare systems and other healthcare related entities with physician groups and other care providers. Additional healthcare industry related services provided include physician and practice benchmarking, physician compensation analysis and practice management and assessment.

Also a member of Valuation and Forensic Services, providing business valuations, litigation support and other valuation consulting and appraisal services.

Prestige Group, Inc., Assistant Controller — *2005 to 2008*

Primarily responsible for billing and reimbursement of subcontracted services for a domestic and international logistics services broker with operations in Indianapolis, IN, Dallas, TX and Houston, TX. Created internal billing and payment systems controls through the development of database systems tying together several disparate operations, sales and accounting systems.

PROFESSIONAL AND CIVIC MEMBERSHIPS

- American Institute of Certified Public Accountants – Accredited in Business Valuation (ABV) Champion
- Indiana CPA Society
- National Association of Certified Valuators and Analysts
- Healthcare Financial Management Association

- American Health Lawyers Association
- Indiana University Master of Health Administration Program Mentor
- United Way Emerging Leaders Program
- The Earth House Collective – Executive Board of Directors

LECTURES, WRITINGS, SPEECHES, SEMINARS, COURSES, ETC.

- "Healthcare Reform: The Rx for Physicians", *The Financial Diagnosis*, Kentucky Healthcare Financial Management Association, August 2010.
- "Owners' Compensation in Physician Practice Valuations" National Association of Certified Valuators and Analysts, September 14, 2010, October 14, 2010 and January 20, 2011.
- "Benchmarking Physician Practices" National Association of Certified Valuators and Analysts, September 23, 2010, October 26, 2010 and January 27, 2011.
- "Effects of Healthcare Reform: The 2011 Outlook for Physician Practice Valuations", *The Value Examiner*, November/December 2010.
- "Healthcare Valuation – What you Need to Know!", National Association of Valuators and Analysts State Chapter 2010, Tri-Annual Meeting (Indiana), November 19, 2010.
- "Valuing Medical Practices For a Divorce in the Current Healthcare Environment", *Valuing Professional Practices and Licenses, Third Edition*, Wolters Kluwer Law & Business, 2012.
- "Valuation A to Z (Part One): Fundamentals and Applications", Columbus Bar Association (Ohio), May 30, 2012.
- "Valuation A to Z (Part Two): Specific Methods and Techniques", Columbus Bar Association (Ohio), June 11, 2012.
- "Financial Projections and Financial Statement Adjustments for Valuation", National Association of Valuators and Analysts State Chapter 2010, Tri-Annual Meeting (Indiana), July 20, 2012.
- "Valuating Healthcare Transactions and Agreements", Columbus Bar Association (Ohio), October 5, 2012

Appendix A

MICHAEL L. UENG, CPA/ABV, CVA

General Data

Indianapolis Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.275.7416
Email: mueng@blueandco.com
Website: www.blueandco.com

EDUCATION

University of Michigan, Ross School of Business
Master of Accounting
Bachelor of Business Administration with emphases in Accounting and Finance

BUSINESS HISTORY

Blue & Co., LLC, Manager *2009 to Present*

A member of the Valuation and Healthcare Strategy Group and a key contributor in providing healthcare practice management services, specifically focusing on business valuations for physician practices, hospitals and other healthcare related entities.

Clifton Gunderson, LLP, Assurance Senior Associate *2006 to 2008*

Performed reviews of Indiana, Ohio, and Mississippi Cost Reports of long-term care and mental health providers with responsibility for planning engagements, managing fieldwork, reviewing work of staff, and completing final report. Trained entire healthcare group during implementation of paperless audit software.

Worked on performance audits of Medicaid Management Information System (MMIS) of fiscal intermediary for the state of Indiana and State Children's Health Insurance Plan administrator for the state of Mississippi, and assisted in recalculation of Medicaid certified public expenditures by all public hospitals in the state of Alabama for Medicaid and DSH settlement.

PROFESSIONAL AND CIVIC MEMBERSHIPS

American Institute of Certified Public Accountants
National Association of Certified Valuation Analysts
Indiana CPA Society
Healthcare Financial Management Association

MEMORADUM

TO: Board of Directors of CEHE
From: Jay Mercer, Counsel to the Board
Re: Minimum Due Diligence

As discussed at our most recent meeting, the level of due diligence necessary for this transaction is driven by the comfort level of the transaction decision makers; CEHE Board of Directors. I have been requested to provide the Board with an outline of the minimum due diligence that I would recommend. This list of minimum due diligence requirements is based on the following assumptions:

- Barney will contribute as a charitable gift the value of the goodwill of the colleges.
- CEHE will purchase the tangible assets of the colleges at fair market value.
- The financing of the purchase of the tangible assets will be collateralized based on a pledge of the tangible assets and personal guarantee from Barney.
- Barney shall provide an indemnification agreement that will be backed by a bond or letter of credit or other appropriate collateral.
- The CEHE Board of Directors shall remain active participants of the Board for term of 3 years following the merger.

<u>Minimum Due Diligence Review</u>:

1. A meeting between Carl Barney, CEHE Board members and Barney's proposed Board members.
2. Review of the organizational records of each merging corporations and LLCs, including Articles, Bylaws, Resolutions and minutes.
3. Review of financial statements for last 3 years.
4. Review of any employment agreements with the term in excess of one year.
5. Review of any consulting management or professional agreements a term in excess of one year.

6. Review of any employment, consulting, management, professional or vendor agreements with individuals " related" to Carl Barney or "related" to any current Board Member, LLC Member and/or highly compensated individuals affiliated with the merger organizations. ("Related" means related to each other through family or business relationships). *

7. Review of summary plan description for any employee benefit plans.

8. Review of any collective bargaining or labor relations agreements.

9, Review of any policies of tenure or policies that restrict "at-will" employment.

10. Review of any notices, claims, audits, or other official notices investigation by the Internal Revenue Service, United Department Education or any State or local regulatory agency which the corporation s or LLCs have received within the last three years.

11. Review of any compliance or settlement agreements with any governmental agency or accrediting organization regarding operational, financial or educational deficiencies or regulatory compliance.

12. Certificates of accreditation from accrediting organizations.

13. Contracts, commitments, notes, debt instruments, security agreements, leases, guarantees that have a term of exceeds one year.

14. Appraisals of all personal property, real estate and goodwill by an appraiser in good standing with the American Society of Appraisers in accordance with USPAP requirements.

15. Organizational chart for each college.

16. Description of any payments, agreements or pledges for support of political candidate or party or used in support of or to influence legislation. *

17. All contracts with any individuals or organizations to raise funds for the corporations.(Professional fund raising). *

18. Descriptions of any Joint ventures, partnerships or affiliations with organizations that will not terminate and/or merger on or before the closing of the transition.*

19. Description of any intellectual property to be sold as part of the sale.

20. Copies of tax returns for the past three years for each organization being merged.

21. Description of any loan to or by a current or former officer, director, trustee, key employee, highly compensated employee.*

19. Description of any on-going settlement payments or compensation arrangement, such as a severance payment to a former employee that will continue after the merger or are not fully funded.

20. Description of all unfunded and/or uninsured liabilities.

21. Description of any and all pending or threatened litigation.

22. Description of any of the following services provided by the corporations or LLCs to any officer, director or employee: first class or charter travel, travel cost for companions, tax indemnification, housing allowance for personal residence, sports or social club memberships, personal services(e.g. maid, chauffer, chef).*

Minimum Representations and Warranties:

Due Organization - in good standing under and by virtue of the laws of its state of organization.

Corporate Power and Authority - possesses the requite authority to enter into the transaction.

Marketable Title – good title to the property sold.

ERISA Complaint- compliant in all employee benefit plans.

Licenses and Accredited- fully licensed and accredited in each state as a college.

Environmental Compliance - substantial compliance with all Environmental laws and the has never been any release or threatened release or disposal of hazardous waste solid waste or other waste is occurring or has occurred on under or to any real property which COLLEGES have an interest.

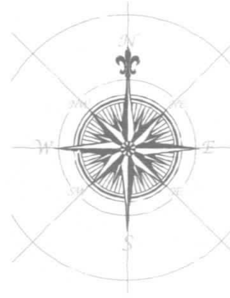
Taxes – current in all tax obligations.

Compliance with Laws – no known violations of law.

Insurance – all property currently insured.

* Transactions that would need to be unwound as they could jeopardize the tax exempt status of CEHE following the merger.

EXHIBIT 18



DA·R·ES
Donor Advising, Research & Educational Services
www.donoradvising.com

August 17, 2016

Mr. Douglas Parrott
Division Director
Federal Student Aid
830 First St., N.E.
Washington, D.C. 20202

Dear Mr. Douglas:

I am writing in response to your letter of August 11, 2016, informing the Center for Excellence in Higher Education that you were refusing to recognize the Center for Excellence in Higher Education as a non-profit institution for Title IV purposes.

As the founding Executive Director of the Center for Excellence in Higher Education (CEHE), and someone who played a significant role in the transaction between Mr. Carl Barney and CEHE, I believe your letter is mistaken both in your general characterization of the transaction, as well as in some key facts. Properly understanding the context of the transaction, as well as the facts, I believe, would have led you to a different conclusion, and I would encourage you to reconsider your ruling in light of these facts.

Your letter correctly characterizes the founding and mission of CEHE. A full review of the activities of CEHE from 2006-2008 will reflect that it was very successful in carrying out this mission. With the financial crisis of 2008, however, CEHE's founding donors withdrew their support. From 2008 until 2012, CEHE and a new board explored a variety of programs, with mixed success, but the challenge of finding consistent sources of funding led me, as Executive Director, to introduce the board to Carl Barney, who was looking for a non-profit organization which could participate in his exit strategy vis-à-vis his schools.

I had gotten to know Mr. Barney through my primary work as a consultant to high net worth donors interested in education. This requires some further explanation.

Starting in August 2011, I worked as a philanthropic advisor to Mr. Barney, who was then contemplating an exit strategy for his ownership of the schools. While our conversations were confidential, I believe it is appropriate to say that Mr. Barney's motivations for this transaction were highly philanthropic. While the transaction was structured as a sale, in fact - looked at with a long view - the overwhelming value of the proceeds of the sale are intended to be put to philanthropic use, both during and - to an even greater degree - after the end of Mr. Barney's life. With his permission, I would be happy to provide more detail on this aspect of our conversations.

It was with the knowledge of Mr. Barney's philanthropic intentions that I recommended to CEHE's board that it explore a transaction with Mr. Barney. In broad strokes, from CEHE's point of view, the intent of the transaction was to acquire a significant asset which could generate cash flow and fund the original mission of CEHE. I continue to believe this is the intent and practice of CEHE today, although I am no longer directly involved.

8520 Allison Pointe Blvd., Suite 220, Indianapolis, IN 46250 tel (317) 570-2345 fax (317) 570-2757

Had this not been Mr. Barney's intent, there would have been no purpose for CEHE to engage in the transaction. Neither I nor any of the CEHE's then board members (two of whom continue on the CEHE board) have benefited financially from the transaction in any way that I am aware other than reimbursement of time and expenses. The members of the board had no pre-existing relationship with Mr. Barney and, as the subsequent record has shown, did not gain materially from the transaction.

I believe your letter omits entirely any theory for the motivation of CEHE's board to engage in what was an involved and time-consuming transaction, if not to further CEHE's mission. Had they not been convinced that a transaction with Mr. Barney could significantly enhance CEHE's original mission, there would have been no purpose to engaging in it. Moreover, I can say with the utmost certainty, that CEHE's board members are individuals of both the highest integrity and great knowledge and experience in non-profit matters. CEHE, including both myself as executive director and its board, were no shills for Mr. Barney; rather, we all took very seriously our fiduciary duties as stewards of CEHE's mission.

While it is true that until the merger CEHE did not function as an entity providing educational services, I believe it is a mischaracterization of its post-merger mission to say that engaging in educational philanthropy is not also a key component of its mission and activities. Indeed, the original agreement called for a specific relationship between funding for CEHE's charitable mission and debt service while the debt was being retired, and anticipated a tremendous increase in funds for this mission once the debt had been paid. While the charitable activity during the period of debt retirement would have been modest in relation to the educational activity, it would not have been insignificant, based on the assumptions at the time. But more importantly, from the moment of the debt retirement, CEHE would have become one of the major educational charities in the country. It was with this expectation, I concluded, and I believe CEHE's board agreed, that it was worth moving forward with the merger.

I have not been privy to information about CEHE's activities since February 2014, but can also attest that during the post-transaction period during which I continued to advise CEHE (January 2013 – February 2014), considerable energy went into exploring the mechanism for applying CEHE's surpluses to philanthropic purposes and planning for the period following retirement of the debt.

I believe therefore that your analysis misses the big picture.

On the matter of net earnings, while it is true that Mr. Barney continued to receive funds from CEHE after the transaction, to the best of my recollection, the funds he received were tied either to debt, or to his role as owner of real estate used by the schools at market or below-market rates. In neither case was this part of net earnings. Indeed, safeguards were put in place against the contingency that the schools were not able to meet their debt obligations from revenue. I believe the agreement clearly lays this out.

You characterize these arrangements, however, as allowing Mr. Barney to draw from net earnings. I believe the intent of these provisions was exactly the opposite: 1) to allow Mr. Barney to receive the full, fair market value of the schools at the time of their sale, *if and only if* future business conditions validated the accuracy of the appraisal, and 2) simultaneously to create limits to the debt obligation, should the schools not be able to service the debt. The actions taken by Mr. Barney and the Board to adjust the debt and other arrangements subsequent to the merger are fully in keeping with this interpretation.

It also overlooks the great care to which I, as Executive Director, and the board members of CEHE and their counsel, Jay Mercer, went to assure that we were attentive to the spirit and letter of our fiduciary obligations. We were fully aware of the lopsided nature of the relationship between CEHE and Mr. Barney's schools, and as a result took extra care to assure that we were attentive to our responsibilities as stewards of the public trust in a pubic charity such as CEHE.

I would therefore like to comment specifically on the question of the appraisal and the due diligence conducted by CEHE and its board as part of the merger process. You note that the appraisal which formed the basis of the valuation was conducted by Barrington Research. I participated in one or more presentations of its appraisal findings by Barrington. Moreover, while with the advice of counsel, CEHE's board concluded that it did not need to conduct a separate appraisal, it did conclude that additional due diligence was called for on the question of the appraisal.

As a result, we engaged Blue & Co., a large Indianapolis firm which specializes in this area. They presented to the CEHE board an evaluation of the methodology of the Barrington appraisal, which was reviewed and discussed by the CEHE board. There were no adverse findings in that report, as I recall, which would indicate that an additional, full appraisal was necessary.

Moreover, CEHE conducted additional due diligence on key questions. Upon completion of the transaction, I turned all CEHE records over to the new CEHE office in Utah, and as a result I am working from memory. Nevertheless, one additional area where CEHE concluded that it needed to conduct an additional, independent evaluation of the proposed transaction was in the area of executive compensation, and CEHE also hired a third party to review and do a salary evaluation of Eric Juhlin. It, too, validated the permissibility of the terms of the transaction.

I strongly believe, therefore, that your letter and findings:

1. Mischaracterize the intent of the transaction and the behavior of the parties;

2. Fail to properly recognize the extreme care and attention to both the spirit and the letter of the requirements for due diligence of CEHE's board and staff;

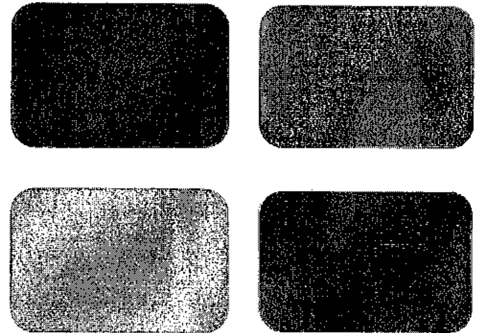
3. And therefore reach a misguided conclusion which is not in keeping with the facts available to CEHE, its board, staff, and counsel at the time of the transaction.

I would therefore most respectfully encourage you to reconsider your decision and approve CEHE for treatment as a non-profit entity for Title IV purposes.

Sincerely,

Frederic J. Fransen, Ph.D.
CEHE Executive Director 2006-2012

EXHIBIT 19



CollegeAmerica

Summary Appraisal Review Report

AS OF SEPTEMBER 30, 2012

Report Date: November 9, 2012

CPAS / ADVISORS

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B. Barrington Research Associates Board Presentation as of October 5, 2012

CPAS · ADVISORS

Blue & Co., LLC / One American Square, Suite 2200 / Box 82062 / Indianapolis, IN 46282
main 317.633.4705 fax 317.633.4889 email blue@blueandco.com

November 9, 2012

Frederic J. Fransen
Executive Director
Center for Excellence in Higher Education, Inc.
8520 Allison Pointe Blvd., Ste. 220
Indianapolis, IN 46250

Dear Mr. Fransen:

Pursuant to your request, Blue & Co., LLC ("Valuation Analysts") has prepared a review of the Barrington Research Associates ("Barrington") board presentation provided by your legal counsel (the "Presentation"), regarding the valuation of CollegeAmerica (the "Company") on October 5, 2012 with respect to the fair market value of common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis. The appraisal was originally prepared for Center for Excellence in Higher Education, Inc. (the "Purchaser") for potential acquisition of CollegeAmerica.

You and your legal counsel have requested the Valuation Analysts perform an analysis and issue an Appraisal Review Report of the assumptions, adjustments, and validity of the methodologies applied by Barrington in the valuation. We are utilizing the Presentation provided by legal counsel, which has been included as **Appendix B**, to this report.

This letter is intended to provide you with an overview of the purpose and scope of our analyses and conclusions. Please refer to the attached report for a discussion and presentation of the analyses performed in connection with this engagement.

SCOPE AND INTENDED USE OF THE APPRAISAL REVIEW

Reporting Format

Our analysis and report is intended to be in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by the Appraisal Foundation,[1] the ethics and standards of the ASA, IBA and NACVA[2] and with IRS business valuation development and reporting guidelines.

[1] The Appraisal Standards Board (ASB) of the Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. The Appraisal Foundation is authorized by Congress as the source of Appraisal Standards and Appraiser Qualifications. USPAP uses the terms appraiser and appraisal report. SSVS uses the terms valuation engagement and detailed report. USPAP also uses the term appraiser while SSVS uses the term valuation analyst. We use these terms interchangeably in this report.
[2] ASA American Society of Appraisers; IBA Institute of Business Appraisers; NACVA National Association of Certified Valuation Analysts.

The scope of our work on this assignment is being performed under Uniform Standards of Professional Appraisal Practice ("USPAP") Standard Rule 3 as an Appraisal Review. Appraisal Review assignment reporting formats are not specifically addressed by USPAP Standard 3, rather the substantive content of the report determines its compliance. In performing an Appraisal Review assignment in accordance with USPAP's Standards and Standard Rules, specifically Standard 3, we must:[3]

- state the identity of the client and any intended users, by name or type;
- state the intended use of the appraisal review;
- state the purpose of the appraisal review;
- state information sufficient to identify:
    - the work under review, including any ownership interest in the property that is the subject of the work under review;
    - the date of the work under review;
    - the effective date of the opinions or conclusions in the work under review; and
    - the appraiser(s) who completed the work under review, unless the identity is withheld by the client.
- state the effective date of the appraisal review;
- clearly and conspicuously:
    - state all extraordinary assumptions and hypothetical conditions; and
    - state that their use might have affected the assignment results.
- state the scope of work used to develop the appraisal review;
- state the reviewer's opinions and conclusions about the work under review, including the reasons for any disagreement;
- when the scope of work includes the reviewer's development of an opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review, the reviewer must:
    - state which information, analyses, opinions, and conclusions in the work under review that the reviewer accepted as credible and used in developing the reviewer's opinion and conclusions;
    - at a minimum, summarize any additional information relied on and the reasoning for the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review;
    - clearly and conspicuously:
        - state all extraordinary assumptions and hypothetical conditions connected with the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review; and
        - state that their use might have affected the assignment results.

Additionally, this Appraisal Review will take into consideration the valuation standards and guidelines set forth within the Statement of Standards for Valuation Services No. 1 (SSVS) of the American Institute of Certified Public Accountants. SSVS defines an appraisal (business valuation) engagement as "an engagement to estimate value in which a valuation analyst determines an estimate of the value of a subject interest by performing appropriate procedures, as outlined in the AICPA Statement on Standards for Valuation Services, and is free to apply the valuation approaches and methods he or she deems appropriate in the circumstances."

[3] USPAP Standard 3, p. U-35.

To gain an understanding of the operations of CollegeAmerica, we analyzed the Presentation, which contained financial information, and/or operational data, and background and industry information. To understand the environment in which CollegeAmerica operates, we researched the status of and trends in the various industries that have an impact on it. We also studied economic conditions as of the Valuation Date and their impact on CollegeAmerica and the industry.

We requested the underlying valuation report summarized in the Presentation from the Purchaser and Barrington, but did not receive such report. Therefore, our review is based solely on information contained in the Presentation. As of the date of the report we do not believe that we will receive any additional information or support for the work contained within the Presentation.

As discussed in this report, we reviewed all valuation approaches and methods considered by Barrington, including the income, asset, and market approaches to derive an opinion of value of the subject. Our conclusion of value reflects these findings, our judgment and knowledge of the marketplace, and our expertise in valuation.

In conducting the Appraisal Review, our investigation and analysis included (but was not limited to) consideration of the following:

- Board presentation regarding the valuation of CollegeAmerica, as provided by Barrington Research Associates
- Federal Reserve statistical releases
- Current and future economic conditions as forecast by various sources
- Miscellaneous other information

The procedures employed in valuing the subject interest in the Company included such steps as we considered necessary, including (but not limited to):

- An analysis of CollegeAmerica's financial information and specific data included in the Presentation
- An analysis of the Company's expectations for future operations and other information as provided within the Presentation
- An analysis of the education industry in general
- An analysis of the general economic environment as of the Valuation Date, including investors' equity and debt-return expectations
- An analysis of other pertinent facts and data resulting in our conclusion of value

DEFINITION AND PREMISE OF VALUE

Terms and Definitions

The standard of value is fair market value, defined as "the price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm's length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts."[4]

[4] International Glossary of Business Valuation Terms.

Fair market value is also defined in Revenue Ruling 59-60 as "the price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts." Revenue Ruling 59-60 also defines the willing buyer and seller as hypothetical as follows: "Court decisions frequently state in addition that the hypothetical buyer and seller are assumed to be able, as well as willing, to trade and to be well informed about the property and concerning the market for such property." Furthermore, fair market value assumes that the price is transacted in cash or cash equivalents. Revenue Ruling 59-60, while used in tax valuations, is also used in many nontax valuations.[5]

Based upon the Presentation, fair market value is defined on slide 70 as "the price at which a willing buyer and a willing seller would enter into a transaction...both parties having full access to all relevant information...and neither party being under duress."

VALUATION REVIEW PROCEDURES

The Valuation Analyst has considered the history, character, and operations of the Company to the extent possible and as provided through the Presentation. In accordance with the requirements of USPAP, the Code of Professional Ethics and Professional Standards of the American Society of Appraisers, the three approaches to value (Cost, Market and Income) were considered.

This valuation review was performed solely to assist in the determination of the reasonability of the concluded value contained within the Presentation, and the resulting opinion should not be used for any other purpose or by any other party for any purpose, without our express written consent.

We have made our best efforts to ensure that our analysis and report are in conformance with the USPAP promulgated by the Appraisal Foundation,[6] the ethics and standards of the ASA, IBA and NACVA[7] and with IRS business valuation development and reporting guidelines.

VALUATION REVIEW CONCLUSION

In arriving at our review opinion, we noted some issues with the Presentation that we believed required further scrutiny. These issues included:

- The Cost Approach was not discussed.
    - Additionally, the Presentation did not include the Company's balance sheet.
- Certain "add-backs" to the income statements had no detailed explanation as to their nature or reasoning for the add backs.

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[5] Fair Market Value is further defined by § 1.170A-1(c)(2) Internal Revenue Service Code of Federal Regulations.

[6] The Appraisal Standards Board (ASB) of the Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. The Appraisal Foundation is authorized by Congress as the source of Appraisal Standards and Appraiser Qualifications. USPAP uses the terms appraiser and appraisal report. SSVS uses the terms valuation engagement and detailed report. USPAP also uses the term appraiser while SSVS uses the term valuation analyst. We use these terms interchangeably in this report.

[7] ASA American Society of Appraisers; IBA Institute of Business Appraisers; NACVA National Association of Certified Valuation Analysts.

- Given the information provided within the Presentation, the discount rate utilized under the Income Approach was lower than what we might have expected.
  - Two different betas and a "regulatory premium" were applied with no explanation contained within the Presentation.
  - It appears that no adjustment was made for Company specific risk.
- A capitalization of benefits method was not discussed or included within the Presentation.
- No industry methods or rules of thumb were discussed or included within the Presentation.
- The conclusion of value contained within the Presentation was expressed as the weighted average of three methods.
  - Despite the fact that this practice is contrary to Revenue Ruling 59-60, no explanation is provided for the use of weighting of the three methods.

We have also considered certain other areas of interest within our review report; however we believe that the points listed above are of primary concern. That being said and considering the limitations of the nature and amount of information included in a presentation format as opposed to a fully-contained appraisal report as defined by SSVS-1, we cannot draw any conclusions as to the effect of the underlying information that we did not receive. Noting certain factors, assumptions, and differences in theory and based upon the analyses performed, we have recalculated the potential value of the Company under the methods utilized in the Presentation.

	Value (Presentation)	**Recalculated Value (Review)**		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Range ($ in millions)		**$511,300**	-	**$680,000**

Based upon the table above, it appears that the estimated fair market value for the Company shown on slide 71 of the Presentation is consistent with our overall range of recalculated value. Therefore, excluding those points noted previously, it is our opinion that the conclusion of value of the common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis contained within the Presentation is likely fairly stated and consistent with fair market value. Since we have not received all the information we requested or discussed certain issues with the original appraisal firm, our opinion is limited to the information available and should new information be received, our conclusion could change.

VALUATION REVIEW TERMS AND CONDITIONS

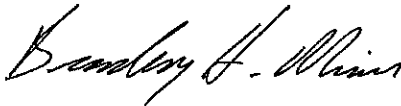
The analyses used in this report are based on estimates, assumptions and other information provided to us by the representatives of the owners of the Company, Barrington and legal counsel.

Neither the Valuation Analyst nor Blue & Co., LLC has any interest or other conflict which could cause a question as to the independence or objectivity of this appraisal review. Our fee in this matter is not contingent on the outcome of our opinion.

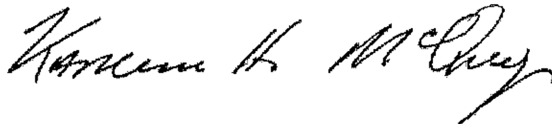
The attached Assumptions and Limiting Conditions, Certifications, and Qualifications of the Valuation Analyst(s) are integral parts of this valuation review opinion.

Distribution of this letter and report and its associated results, which is to be distributed only in its entirety, is for internal use only and intended for and restricted to the Purchaser and legal counsel, and is solely for the purpose mentioned previously. This letter and accompanying report are not to be used with, circulated, quoted, or otherwise referred to in whole or in part for any other purpose or by any other party for any purpose without our express written consent.

Sincerely,



Bradley H. Minor, CPA/ABV/CFF, ASA, CVA, CMEA, Director



Kameron H. McQuay, CPA/ABV, CVA, Director

SUMMARY OF ECONOMIC OVERVIEW & OUTLOOK

In valuing any asset it is important to consider the condition of, and outlook for, the economy or economies of the particular geographic regions in which the asset operates or is located. This analysis of economic conditions and outlook is required because the performance of an asset is affected to varying degrees by the overall trends in the economic environment in which it operates or is located and its value cannot be determined in isolation of these factors.

"In part because of the dampening effect of the higher tax rates and curbs on spending scheduled to occur this year and next, the Congressional Budget Office ("CBO") expects that the economy will continue to recover slowly, with real GDP growing by 2.0% this year and 1.1% next year (as measured by the change from the fourth quarter of the previous calendar year). CBO expects economic activity to quicken after 2013 but to remain below the economy's potential until 2018.

In CBO's forecast, the unemployment rate remains above 8% both this year and next, a consequence of continued weakness in demand for goods and services. As economic growth picks up after 2013, the unemployment rate will gradually decline to around 7% by the end of 2015, before dropping to near 5½% by the end of 2017.

While the economy continues to recover during the next few years, inflation and interest rates will remain low. In CBO's forecast, the price index for personal consumption expenditures increases by just 1.2% in 2012 and 1.3% in 2013, and rates on 10-year Treasury notes average 2.3% in 2012 and 2.5% in 2013. As the economy's output approaches its potential later in the decade, inflation and interest rates will rise to more normal levels."[8]

SUMMARY OF INDUSTRY OVERVIEW & OUTLOOK

Significant Factors Affecting the Industry

We performed research related to the Education and Training Services industry via First Research to verify industry factors considered by Barrington in their valuation of CollegeAmerica.

Based on our research on the education industry, certification classes are driven by employment trends, especially in the medical, high technology, and manufacturing industries, and personal income for more leisure industries (i.e. those that rely on individual desire for self-expression and self-fulfillment, such as yoga, fly fishing, etc.).

Economic recessions can have a mixed impact on this industry. Based on the historical trends noted in First Research, certification class enrollment tends to increase during periods of recessions, as unemployed workers will go back to school to learn new skills. This was noted specifically in a 2008 research report:

[8] Congressional Budget Office *Budget and Economic Outlook: Fiscal Years 2012 to 2022* released on January 31, 2012.

"Swelling Unemployment Could Increase Demand for CTE - Rising US unemployment, which reached 6.7 percent in November 2008 compared to 4.7 percent in November 2007, is likely to boost demand for career and technical education (CTE) programs. The job losses, spread across various sectors, are expected to cause unemployed workers to seek training to learn new skills. Professional associations in hard-hit industries such as real estate have added continuing education courses to reflect changing market conditions."

Meanwhile, leisure studies is a challenge for the education industry, as this type of training is more for outside hobbies, rather than for improvement for potential employment. A recession or high periods of employment leads to a decrease in enrollment, due to the discretionary nature of these courses.

The education industry is heavily regulated at the state and federal level. This includes audits and compliance reviews by the U.S. Department of Education, the Office of Inspector General, and state, guaranty, and accrediting agencies. Accredited schools are able to receive government funding and participate in federal financial aid programs. Increased regulations and compliance requirements and federal funding difficulties increases the risk and uncertainty of the education industry.

Barrington noted that the federal government in the past two years has increased scrutiny and regulatory burdens on the education industry, which was noted in a 2010 research report:

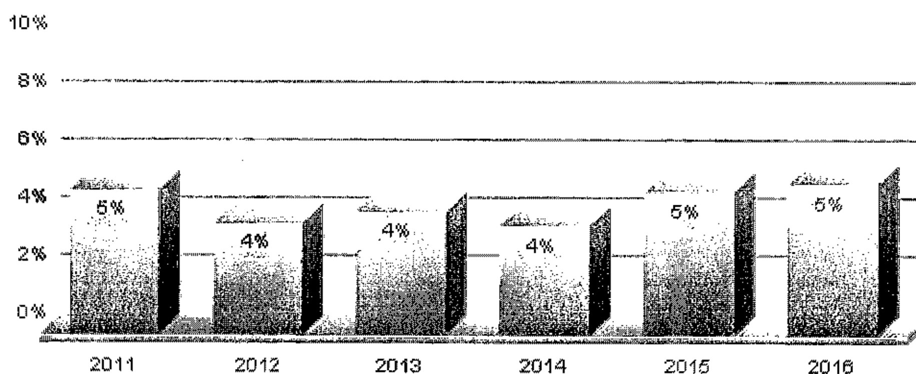
"Financial Aid at For-Profit Schools at Risk - For-profit colleges have come under fire recently from government agencies for leading students to take on heavy debt loads without providing adequate career preparation, according to The Wall Street Journal. The U.S. Government Accountability Office called out 15 such colleges, including two Kaplan campuses, in August 2010 for allegedly giving students misleading loan advice to enroll them. Legislation tying federal aid programs at for-profit colleges to graduates' success in paying off loans could cause some institutions to be ineligible for student aid, resulting in revenue declines."

Finally, due to the continued recession and increased regulations on the education industry, Barrington noted that valuation ratios have decreased in the past few years, which we have noted in our research.

According to First Research, valuation multiples for the education and training services industry have declined between March 2007 (earliest available historical data) and the most recent available data. In data through March 2007, the market value of invested capital ("MVIC") to sales ratio was .9, while the MVIC to EBIT ratio was 3.5. Meanwhile, in data through August 2011, MVIC to sales ratio has fallen to .6, while MVIC to EBIT ratio is now at 3.3. This seems to support the discussion related to valuations and multiples having fallen in the past several years.

However, the industry seems to be recovering and poised for increased growth, based on industry forecasts. The output of U.S. educational services, an indicator for education and training services, is forecast to grow at an annual compounded rate of 4 percent between 2012 and 2016.

Educational Services Growth Recovers



Data Published: September 2012

The following quarterly updates from First Research in 2012 give us additional comfort in the recovery of the education industry, as noted by Barrington in the Presentation:

"Trend: Industry Poised for Moderate Growth - The education and training services industry could grow by 4.3 percent in 2013 compared to 2012, according to the latest industry forecast for First Research from INFORUM. Career technical education (CTE), an important industry segment, will continue to fuel some 29 million middle-class jobs that require a two-year degree or less, according to Georgetown University's Center on Education and the Workforce. Nursing assistants, occupational therapists, paralegals, and refrigeration technicians are among the many opportunities that pay between $35,000 and $75,000 a year."

"For-Profits Exceed Gainful Employment Requirements - For-profit education companies performed better than expected in meeting the US government's new gainful employment guidelines, according to Dow Jones News Service. The Education Department found only 5 percent of programs failed to meet the requirements under the gainful employment regulation. Companies risk losing access to federal student aid if they fail to meet three key measures: loan repayment rates, debt-to-earnings annual ratio, and debt-to-discretionary earnings ratio.

The annual loan repayment rate requires at least 35 percent of a program's former students actively repay their loans, while the debt-to-earnings ratio requires that a student's maximum annual loan payment and student debt not exceed 12 percent of his or her earnings. Some industry observers suggest larger companies like DeVry, Apollo, and Grand Canyon are well-positioned to court new students and stand to benefit the most if smaller programs lose federal aid."

"For-Profits Anticipate Enrollment Boost - For-profit educators anticipate enrollment to taper in 2012 and 2013 before more new students register for classes, according to Dow Jones Newswires. The sector has experienced shrinking enrollment and public scrutiny over educational values, although some institutions have bucked the trend. Strayer Education, which caters chiefly to working adults, saw new-student enrollment grow 12 percent during first quarter 2012, the first quarterly increase since the first half of 2010. The company courted more graduate students and boosted its corporate partnerships. In contrast, ITT – which offers degrees in electronics and industrial design, among other fields – saw new-student enrollment slip 17 percent."

"Online Enrollments Grow - Enrollment in online education continues to outpace the overall higher education student population, according to a recent survey by Babson Survey Research Group and the College Board. More than 6 million students were enrolled in at least one online course in 2011, 10% more than in the previous year. In contrast, overall higher education enrollment grew only 2% during the same period. Nearly two-thirds of higher education institutions cite online education as a critical component to their long-term strategies. Online learning continues to boast vast opportunities for career and technical educators."

REVIEW OF THE BARRINGTON RESEARCH ASSOCIATES VALUATION PRESENTATION

We requested, but were not provided the actual appraisal report prepared by Barrington Research Associates in the valuation of CollegeAmerica. Therefore, we are relying on the information and methodologies outlined in the Presentation, filed at Appendix B, which is summarized as follows:

- Industry Overview
- Historical Financial Statements
- Adjusted Financial Statements
    - Customary Add-backs
    - Marketing Adjustment
- Financial Projections
- Comparable Companies Analysis
- Comparable Transactions Analysis
- Discounted Cash Flow (DCF) Analysis
- Conclusion of Value

Historical Income Statements

We analyzed the summarized historical financial statements shown in the Presentation. We did not perform a review or audit the financial information and are relying on the reported results for the Company as presented.

We reviewed Barrington's adjustments (add-backs) to the historical income statements. The Presentation did not provide any detail related to the reasoning for the add backs noted on slide 14. Typically, these types of adjustments are to remove the effect of non-operating/discretionary and/or non-recurring expense/revenue items.

1. Other revenues – Typically other revenue is a deduction.
2. Bad debt expense, campus start-up costs, good neighbor start-up costs, Esmond & Associates fees, transaction expense, settlements, IT infrastructure expenses, rent for closed campuses – It is unclear why these expenses were added back to the income statements.
3. Legal – other, private office admin, consulting, corporate travel, unallocated call center expenses – These expenses appear to be recurring expenses, as they appear to be incurred every year between 2005 and 2012. There is no explanation as to why these were added back to the operations of CollegeAmerica.

Financial Observations

Barrington summarized several observations regarding CollegeAmerica's historical income statements.

1. Revenues and EBITDA were confirmed to increase approximately 34% and 46% compound annual rate respectively between 2005 and 2010.
2. EBITDA margins were confirmed to be approximately 41% and 39% in 2009 and 2010 respectively.

As noted by Barrington, these growth rates were very high as compared to the industry and would not be sustainable in the long-term.

In our research of margins from benchmark data from IRS Corporate Ratios (Based on 2009 Returns), margins for the Education Services industry for all reporting companies is 13.04% operating profit (EBIT). We then added in depreciation and amortization to arrive at 16.73% EBTIDA margin for IRS benchmarks.

We also looked at data from RMA Annual Statement Studies 2011-2012 for the same industry. RMA only reported EBIT and EBT and did not report individual common size expenses for us to calculate an estimate of EBTIDA. However, RMA operating profit (EBIT) is on average 14.2%, which is comparable to that found in IRS Corporate Ratios.

Finally, commentary in First Research regarding the education industry for "net profit" averages 3%, which would indicate an even lower EBITDA margin. Therefore, the benchmarks above seem to corroborate Barrington's observation that the margins earned in 2009 and 2010 are high and are likely not sustainable in the long-term. By 2012, EBITDA margin had decreased to approximately 21%; while this is below peak margins in 2009 and 2010 it is still above the industry averages noted above.

Barrington noted that CollegeAmerica's cost per lead, cost per interview, and conversion rates in the back half of 2012 are improving and approaching levels in 2009. Longer-term, growth in enrollments, revenues and EBITDA are expected to approach pre-2010 levels. Based on these financial observations and discussions above, we believe this should be reflected in CollegeAmerica's discount rate, which we will discuss later in this report.

Marketing Adjustments

Barrington made a material adjustment related to CollegeAmerica's director of marketing, who assumed sole advertising responsibility from the founder in March 2010. According to the Presentation, the director of marketing "drastically" increased the marketing budget in 2011, which included utilizing funds for ineffective marketing endeavors. Additionally, some funds were spent on services with related parties that might be considered disallowed or otherwise non-operating in nature for valuation purposes.

In March 2012, the director of marketing was terminated and the founder assumed responsibility for marketing again and expenditures and conversion rates appear to have begun to return to historical levels.

This appears to be a relevant adjustment to the historical income statements, due to the unusual and non-recurring nature of the marketing activities and related reduction in revenue. The Presentation discusses the effect of the wayward director of marketing on CollegeAmerica's revenues and expenses.

We believe the concept of the marketing adjustment is valid in terms of valuation methodology and reasonable based on the received facts and circumstances regarding the operations of CollegeAmerica. ***However, without the full valuation report with details on the calculations of the actual numbers related to the marketing adjustment, we cannot comment to the reasonableness of the calculation of the financial implications related to this adjustment shown on slide 14. We have assumed that management and the Purchaser have reviewed the adjustment made by Barrington and it is reasonable and correctly calculated.***

Comparable Company Analysis

Under this method, Barrington has selected a number of publicly traded companies that are similar to the Company in that they provide educational services. The selected companies also appear to be fairly comparable in terms of annual revenue. As a result, we believe that the companies selected are likely appropriate for use under this method.

Through analysis of financial data for these public companies, Barrington has identified certain metrics that have been used to impute a value for the Company. Fourteen companies were specifically identified in the Presentation, with eight being used in application of this method. Additionally, four companies were singled out as being "good comparison companies" based upon qualitative factors (the "Big 4").

The primary bases for comparison of the selected public companies to the Company were the price to earnings ratio, the ratio of equity value to earnings before interest expense, depreciation, and amortization (EBITDA), and the ratio of equity value to sales (net revenue). A summary of this information is presented below (also see slide 30 of the Presentation):

Presenation Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
APEI	22.9	17.1	16.2	13.7	9.3	7.3	6.8	5.7	2.6	2	1.7	1.4
LOPE	21.7	20.9	16.6	14.7	10.7	10.2	7.9	6.7	2.6	2.4	2.1	1.8
CPLA	9.6	9.8	12.1	11.6	3	3.2	3.8	3.7	0.8	0.8	0.8	0.8
APOL	5.4	5.9	8.2	9.3	1.8	2.1	3.1	3.6	0.6	0.6	0.7	0.7
NAUH	12.8	25.5	15.3	12.1	5	7.4	5.7	5.6	0.9	0.8	0.7	0.7
STRA	6.6	7.2	11	11.4	3.4	4	5.7	5.9	1.3	1.3	1.4	1.4
DV	5.9	4.9	7.1	12.2	2.3	3.3	4.6	4.2	0.6	0.6	0.7	0.6
EDMC	2.1	1.8	2.8	6.8	2.6	3.4	4.4	4.1	0.6	0.6	0.7	0.7
Mean	10.9	11.6	11.2	11.5	4.8	5.1	5.3	4.9	1.3	1.1	1.1	1.0
Median	8.1	8.5	11.6	11.9	3.2	3.7	5.2	4.9	0.9	0.8	0.8	0.8
Mean and median	9.5	10.1	11.4	11.7	4.0	4.4	5.2	4.9	1.1	1.0	0.9	0.9
Big 4	16.0	17.7	14.8	13.0	7.1	7.2	6.5	6.0	1.9	1.6	1.5	1.3

Morningstar Public Company Data

	P/E				EV/EBITDA				EV/Sales			
	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E	2010A	2011A	2012E	2013E
APEI	23.40				1.7				0.5			
LOPE	20.40				1.6				0.4			
CPLA	18.30				1.8				0.5			
APOL	11.70				0.9				0.3			
NAUH	2.80	19.80				3.0			0.2	0.6		
STRA	15.70				0.8				0.3			
DV	13.60	12.60				2.5			0.6	0.6		
EDMC	12.50	14.40				3.2			0.8	0.7		
Mean	14.8	15.6			1.4	2.9			0.4	0.6		
Median	14.7	14.4			1.6	3.0			0.4	0.6		
Mean and median	14.7	15.0			1.5	3.0			0.4	0.6		
Big 4	15.6	19.8			1.4	3.0			0.3	0.6		

Upon review of the public company data presented above, we believe that there may be some discrepancies between the financial ratios presented and data that we retrieved from the Guideline Company database published by Morningstar. Although Morningstar did not provide all data contained within the presentation, we had retrieved those which were available through reasonable effort.

In order to determine the potential effect of the difference between the Presentation comparable data and the metrics that we had retrieved from Morningstar, we applied the same methodology used in the Presentation to our sampled data.

College of America

Financial metrics $ in millions	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E
Unadjusted metrics	46.7	37.1	21.7	29.5	82.7	66.1	39.0	54.9	240.5	245.3	217.6	246.6
Adjusted metrics	50.5	50.3	35.5	29.5	92.5	91.1	65.0	54.9	248.4	265.0	248.1	246.6

Presenation Public Company Data

	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E
Mean and median	9.5	10.1	11.4	11.7	4.0	4.4	5.2	4.9	1.1	1.0	0.9	0.9
Big 4	16.0	17.7	14.8	13.0	7.1	7.2	6.5	6.0	1.9	1.6	1.5	1.3

Valuation Indications - M&M

Financial metrics $ in millions	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E	Average
Unadjusted metrics		373.6	246.4	344.0		291.3	202.8	270.0		237.6	201.3	217.3	264.9
Adjusted metrics		506.5	403.1	344.0		401.4	338.0	270.0		256.7	229.5	217.3	329.6

Valuation Indications - Big 4

Financial metrics $ in millions	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E	Average
Unadjusted metrics		655.7	320.6	382.8		477.6	254.5	328.0		398.6	321.0	326.7	385.1
Adjusted metrics		889.1	524.5	382.8		658.2	424.1	328.0		430.6	365.9	326.7	481.1
Average (M&M and Big 4)		606.2	373.7	363.4		457.1	304.9	299.0		330.9	279.4	272.0	365.2

Morningstar Public Company Data

	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E
Mean and median	14.7	15.0			1.5	3.0			0.4	0.6		
Big 4	15.6	19.8			1.4	3.0			0.3	0.6		

Valuation Indications - M&M

Financial metrics $ in millions	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E	Average
Unadjusted metrics		556.5				196.6				156.4			303.2
Adjusted metrics		754.5				271.0				169.0			398.2

Valuation Indications - Big 4

Financial metrics $ in millions	P/E 2010A	2011A	2012E	2013E	EV/EBITDA 2010A	2011A	2012E	2013E	EV/Sales 2010A	2011A	2012E	2013E	Average
Unadjusted metrics		734.6				200.7				135.0			356.8
Adjusted metrics		995.9				276.6				145.8			472.8
Average (M&M and Big 4)		760.4				236.3				151.5			382.7

Based upon our understanding of the application of this methodology, it would appear that either a weighted average was applied to the selected comparable company metrics in the Presentation or there is some disconnect between the calculated average valuation indication of $398M (slide 39). As shown above, we have calculated a value of approximately $365M using the same data. Interestingly, when we used the financial metrics that were calculated using the Morningstar data the indicated value was closer to the amount shown in the Presentation (approximately $383M).

	Presentation	Review	
Comparable company analysis - value before merger premium	**$398.8**	**$382.7**	**$365.2**
Times:			
Merger premium - slide 44	40%	40%	
Indicated value - slide 45	$558.3		
Less:			
Indicated value - reviewed calculation		535.8	511.3
Potential net difference ($ in millions)		**22.5 -**	**47.1**
Divided by:			
Indicated value - slide 45		558.3	
Potential net difference (%)		**4% -**	**8%**

Our analysis above shows that the potential result of applying the metrics derived from our review of the Presentation could result in a difference in value of between approximately $22.5M and $47.1M; however it is important to note that we generally believe that any two independent valuations that fall within a variance in indicated value of less than 10% are in agreement in regard to their opinion. Since we have estimated that the potential net differences between our reviewed calculations and the indicated value presented in slide 45 of the Presentation to be between 4% and 8%, it is our opinion that the discrepancies noted are likely immaterial.

Control Premium

In the comparable company analysis, Barrington applies multiples from publicly traded companies to CollegeAmerica's financial performance to determine a "minority interest" value of $398.8 million.

To arrive at a control value, as is the case with the purchase of interest of CollegeAmerica, Barrington applies a 40% control premium, based on a range of premium from actual transactions that have occurred in the market. This leads to a value after merger premium of $558.3 million.

The methodology utilized by Barrington is generally accepted by many in the valuation community. These valuators believe that since the valuation multiples are from publicly traded companies, where no one owner has any sort of control, they are based on a minority interest. Therefore, to arrive at a control position value, one must apply a control premium, as is the case in the valuation of CollegeAmerica.

However, many others believe that the public company multiples are neutral in respect to a minority versus control position, and that the determination of whether to include a control premium or minority interest discount is based on the cash flows of the subject company.

Both valuation methodologies related to control premiums from guideline company multiples are accepted within the valuation community and therefore, we believe it is reasonable methodology for Barrington to have utilized.

Comparable Transactions Analysis

Barrington states that under this method, actual transactions of comparable companies were used to obtain transaction multiples that were then applied to certain Company metrics in order to determine a "control sale" value (slide 47). The metrics selected, as shown below, were price to EBITDA and price to revenue.

Generally, when calculating a control value under this methodology, the selected multiples are based upon a market value of invested capital (MVIC) for the comparable company transaction. Barrington has in this case used an equity value for the companies sampled, with the difference being that an equity value includes the structured debt of the company. MVIC on the other hand is the equity value of the company with the structured debt added back.

The theory behind using MVIC to express a control value is that under a control scenario, owners of a company have the discretion to manipulate capital structure to include debt as deemed necessary.

In order to determine the possible effect of using equity value as opposed to MVIC under this method, we recalculated the value of the Company using MVIC to EBITDA and MVIC to sales metrics obtained from the Pratt's Stats database for entities that were as similar in nature to the Company as we could determine. We did not have access to the identical company data that Barrington had used, however we believe that the companies selected were similar enough for purposes of this analysis.

It is important to note that there was a slight difference in our calculation of the price to revenue implied value obtained using the equity value data originally selected by Barrington. The value shown on slide 48 using this metric is between $348.8 and $549.3 million, where we have calculated a value of between $352.3 and $548.6 million; however the difference is in our opinion likely immaterial to our analysis and has been noted to make the reader of this report aware that there is a discrepancy in the table below and the Presentation.

In calculating the implied values below, a 40% discount factor has been applied by Barrington to account for the timing of the transactions used under this method. The Presentation states that the industry has not had significant transaction activity in the most recent periods since the date of the valuation, and the market for similar companies is not nearly as strong as reflected in the data presented. Additionally, Barrington states that the application of this method is subjective (slide 47) in nature and as such, we do not have issue with the fact that the Presentation does not include support for the 40% discount factor or that the factor was used in determining the implied value shown on slide 48.

Based upon the MVIC data that we've used under this method, the implied value range is from $308.0 to $624.1 million. The implied value of $348.8 to $549.3 shown in the Presentation using equity value data is within the MVIC range, and as a result we believe that this range is consistent with our findings despite the difference in the theoretical level of control.

Target Company Name	Acquirer Company Name	Announce Date	Equity Value ($ in millions)	Price / EBITDA	Price / Revenue
Renaissance Learning	Permira Advisors	8/16/2011	$455	11.5	3.3
Nobel Learning	Leeds Equity Partners	5/18/2011	125	7.8	0.5
Laureate Education	S.A.C. Capital	1/28/2007	3,226	14.3	2.8
Education Management	Goldman Sachs & Providence	3/6/2006	3,244	12.6	3.0
Educate	Sterling; Citigroup; Educate	9/25/2006	346	9.5	1.0
eCollege.com	Pearson Education	5/14/2007	504	25.5	9.2
Concorde Career Colleges	Liberty Partners	6/21/2006	109	15.3	1.3
		Mean		13.8	3.0
		Median		12.6	2.8
		Laureate, EDMC & Concorde		14.1	2.4
		Less: 40% discount		60%	60%
		Adjusted multiples		8.4	1.4
		Times: College America metrics		65.0	248.1
		Implied valuation		**548.6**	**352.3**

CompanyName	BusinessDescription	Sale Date	Market Value of Invested Capital (MVIC)	MVIC / EBITDA	MVIC / Sales
Hesser, Inc.	Owner and Operator, Post Secondary Schools (College)	3/13/1998	$15,000,000	8.6	0.9
Western State University of Southern California	Law School	3/1/2001	12,600,000	15.9	1.5
American Education Centers, Inc.	Offers Diploma and Associate Degree Programs	9/2/2003	116,000,000	26.0	5.1
Wyo-Tech Acquisition Corporation	Offers Diploma and Degree Programs in Auto - Diesel Tech	7/1/2002	84,400,000	20.7	2.7
Interboro Institute, Inc.	Owns and Operates a Two-Year College	1/14/2000	672,500	0.5	0.1
U.S. Education Corporation	Owns and Operates Private Career Colleges	9/18/2008	298,185,000	47.6	2.1
Penn Foster Education Group, Inc.	Provider of Consumer-Based Distance Education	12/7/2009	176,264,000	12.3	2.0
Heald Capital, LLC	Offers Certificate Programs and Associate Level Degrees	1/4/2010	440,572,000	11.7	2.4
		Mean		17.9	2.1
		Median		14.1	2.0
		Average of mean and median		16.0	2.1
		Less: 40% discount		60%	60%
		Adjusted multiples		9.6	1.2
		Times: College America metrics		65.0	248.1
		Implied valuation		**624.1**	**308.0**

Under this method, Barrington goes on in the Presentation to show additional EBITDA multiples based upon market intelligence, historical trending and prior offers for the Company. Solely based upon the information contained within the Presentation, the sources and in some cases the meaning of this data is unclear. Although the EBITDA multiples shown are consistent with the transaction data from slide 48, we have no opinion to their reliability absent any further detail from Barrington.

Comparable Transaction Analysis - Review

Education industry transactions		$308.0	$624.1
Market intelligence	from Presentation	520.0	585.0
Historical multiples	from Presentation	455.0	650.0
Offers received	from Presentation	507.0	669.9
Implied valuation (average)		**$539.9**	

As shown above, the net difference in implied value due to the potential variance in our application of MVIC to the equity values used in the Presentation is approximately $4.3 million (slide 52).

Cost of Equity

Barrington utilized the Capital Asset Pricing Model ("CAPM") to determine an appropriate discount rate or required rate of return of an asset. The formula for CAPM is as follows:

$$E(R_i) = R_f + (Beta \times RP_m) + RP_s + RP_u$$

Where:

$E(R_i)$	=	Expected (market required) rate of return
R_f	=	Rate of return for a risk-free security as of the Valuation Date
Beta	=	Measure of systematic risk
RP_m	=	Equity risk premium for the "market"
RP_s	=	Risk premium for size
RP_u	=	Risk premium for specific company, u stands for unsystematic risk

Barrington CAPM:

Base case: 13.86% = 1.65% + (1.59 x 6.01%) + 2.65%

Low beta case: 13.23% = 1.65% + (0.82 x 6.01%) + 2.65% + 4.00%

The risk free rate (R_f) was based on the 10-year U.S. Treasury yield as of September 30, 2012. Many valuators utilize the 20-year bond rate as a proxy to a risk free security, which as of this date was 2.42%. However, there is debate whether it is more accurate to use a shorter-term Treasury bill or a long-term Treasury bond to represent the risk free rate of return. The Presentation did not outline the reasoning behind the use of a shorter period 10 year yield.

Beta is typically derived from a group of guideline public companies that are similar to the subject company. Beta is representative of industry risk. Barrington utilized betas derived from public companies considered in comparable company analysis, which appears reasonable.

The equity risk premium (RP_m) is often based on Ibbotson *Cost of Capital Handbook* and is currently 6.62%. Barrington on the other hand utilized the equity risk premium from Stern School of Business professor Aswath Damodaran's *Equity Risk Premiums (ERP): Determinants, Estimation and Implications – The 2012 Edition*, which is 6.01%. The source for Barrington's equity risk premium appears to be reputable and reasonable.

The increased risk premium for being a small company versus a large publically traded company is the size premium and is typically derived from Ibbotson, which Barrington has utilized in its discount rate.

Finally, CAPM requires consideration of any risks specific to the subject company. There is little objective data and no quantitative means of establishing the specific risk of a subject company, and it is typically based on judgment and experience. These are any risks in addition to the equity, industry, and size risks outlined above. General factors that should be considered include:

1. Business risk
   a. Size relative to the benchmarks used for earlier risk premiums
   b. Geographical concentration
   c. Management strength and depth
   d. Product line concentration
   e. Customer mixture and reliance
   f. Supplier mixture and reliance
   g. Competitive strengths and weaknesses
   h. Quality and variability of earnings
2. Industry
3. Financial risk
   a. Degree of leverage
   b. Coverage ratios
   c. Liquidity
   d. Access to sources of capital

We noted that Barrington utilized a discount rate based on two scenarios of CAPM with different betas and a Barrington estimate for a "regulatory" premium. No explanation was given for utilizing the two beta scenarios and what the regulatory premium is or how it was calculated.

It appears that Barrington did not include any sort of specific company risk premium that would take into consideration the riskiness of investing in CollegeAmerica specifically. Examples of these risks were discussed above. Given we did not have access to the valuation report underlying the Presentation, we do not know whether Barrington considered any additional specific company risk related to CollegeAmerica that should be incorporated in the discount rate.

Based on the Presentation and our analysis, we believe it is possible that some sort of specific company risk should have been included in the calculation of the discount rate for CollegeAmerica due to factors such as the following:

1. As Barrington noted in the background analysis, CollegeAmerica has experienced high compound growth since 2005, which may not be sustainable.
2. EBITDA margins are very high compared to the industry (30%-40%) versus less than 20% for the industry. These margins are likely not sustainable in the long-term.
3. CollegeAmerica's founder delegated marketing duties to another manager in 2010. As discussed earlier, the marketing manager made several poor decisions in 2010 and 2011, which affected CollegeAmerica's bottom line. Barrington made a marketing adjustment due to the "non-recurring" nature of the reduced revenue and increased expenses. This may indicate issues with management's ability to maintain profitability long-term.

As a measure of how the discount rate used in the Presentation could potentially vary based upon the points raised above, we have recalculated the discount rate using the following assumptions:

- Risk free rate = 20-year US treasury bond rate
- Market risk premium = Ibbotson equity risk premium
- Regulatory risk = no regulatory risk assumed
- Company specific risk = varies by company; a range of 0% to 4% was assumed

As shown in the table below, based upon the assumptions listed above we've selected a discount rate of 16% as opposed to the 14% rate shown on slide 66 of the Presentation.

Cost of Equity - II (Presentation)

	Risk-Free Rate		Beta		Market Risk Premium		Market Discount Rate		Size Premium		Regulatory Premium		Equity Discount Rate
Base case	1.65%	+ (	1.59	x	6.01%	) =	11.21%	+	2.65%	+	0.00%	=	13.86%
Low beta case	1.65%	+ (	0.82	x	6.01%	) =	6.58%	+	2.65%	+	4.00%	=	13.23%
									Selected discount rate			=	**14.00%**

Cost of Equity - II (Review)

	Risk-Free Rate		Beta		Market Risk Premium		Market Discount Rate		Size Premium		Company Specific Risk		Equity Discount Rate
Base case	2.42%	+ (	1.59	x	6.62%	) =	12.95%	+	2.65%	+	0.00%	=	15.60%
Low beta case	2.42%	+ (	0.82	x	6.62%	) =	7.85%	+	2.65%	+	4.00%	=	14.50%
									Selected discount rate			=	**16.00%**

Discounted Future Benefits Method

Barrington applied a five year discrete projection period and a terminal year (operations into perpetuity) in arriving at a value of CollegeAmerica under the DCF method. The five year discrete projection period is based on CollegeAmerica's projections for 2013 – 2017 and additional adjustments for working capital and capital expenditures to arrive at free cash flows of the Practice.

To determine the terminal year value, Barrington applied an EBITDA multiple to projected EBITDA in 2017. The EBITDA multiple of 8.0 was used, which appears high. On Slide 37, the comparable company enterprise value to EBITDA multiples "Mean & Median Index" ranges from 4.0 to 5.2, while the "Big Four Index" ranges from 6.0 to 7.1. It appears that Barrington is utilizing an EBITDA multiple greater than that of industry comparable companies.

We were not provided support for how this multiple was determined in the Presentation. Hence, based on the information received, the multiple may be inflating the concluded value under the DCF method. However, the full valuation report may provide additional information on the reasoning for utilizing this multiple.

As a measure of the potential impact of the difference in discount rate that we have selected in the previous table, and using the upper limit of the industry comparable EBITDA multiples for the "Big Four Index" as shown in the Presentation, we have recalculated the discounted cash flow indication of value for the Company.

Terminal Value Analysis - Review

	2013	2014	2015	2016	2017
EBITDA	$56,456	$82,399	$106,943	$128,923	$146,969
Terminal value multiple					7.1
Terminal value					**$1,043,480**

Cash Flows for DCF Analysis - Review

	Discount Rate					
Free cash flows		$32,535	$27,805	$41,247	$53,937	$62,478
Terminal value						1,043,480
Total cash flows		32,535	27,805	41,247	53,937	1,105,958
Mid-point convention		0.5	1.5	2.5	3.5	4.5
PV factor using:	16%	0.9285	0.8004	0.6900	0.5948	0.5128
Discounted cash flows		30,208	22,255	28,461	32,084	567,124
Net present value						**$680,131**

It is important to note that we have also implemented a mid-point convention in the calculation above, where an end-of-year convention was used in the Presentation. Use of a mid-point convention assumes that cash flows for the company are evenly distributed over the course of the year; the end-of-year convention is typically used when cash is received at the end to the year. Based on a typical school year semester system, we have assumed that cash is probably received in a manner somewhat periodically over the course of the year and have thus decided that the mid-point convention may be more appropriate.

Based upon the table above, we have calculated a value of approximately $680 million, compared to the value of approximately $753 million shown on slide 68.

Valuation Conclusion

After determining the value of CollegeAmerica under the Comparable Transaction Analysis, Comparable Company Analysis, and Discounted Cash Flow Analysis, Barrington utilized a weighted average of the three methods, as shown below, to arrive at a conclusion of value for CollegeAmerica:

	Value (Presentation)	Recalculated Value (Review)		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Range ($ in millions)		**$511,300**	**-**	**$680,000**

However, Revenue Ruling 59-60 states: "Because valuations cannot be made on the basis of a prescribed formula, there is no means whereby the various applicable factors in a particular case can be assigned mathematical weights in deriving the fair market value. For this reason, no useful purpose is served by taking an average of several factors (for example, book value, capitalized earnings and capitalized dividends) and basing the valuation on the result. Such a process excludes active consideration of other pertinent factors, and the end result cannot be supported by a realistic application of the significant facts in the case except by mere chance."

While Revenue Ruling 59-60 discourages the use of weighting multiple methods, weighting is frequently accepted in the valuation community in general practice. However, the Presentation did not give any support for the weightings used in arriving at the conclusion of value and we, therefore, are unable to determine whether this weighting was reasonable.

The Presentation included a summary of the comparable company analysis, comparable transactions analysis, and the discounted future benefits method. Valuation standards also require the valuator to consider the asset approach, capitalized benefits approach, and rules of thumb/industry methods, in addition those methods shown in the Presentation.

CONCLUSION OF VALUATION REVIEW

In arriving at our review opinion, we noted some issues with the Presentation that we believed required further scrutiny. These issues included:

- The Cost Approach was not discussed.
    - Additionally, the Presentation did not include the Company's balance sheet.
- Certain "add-backs" to the income statements had no detailed explanation as to their nature or reasoning for the add backs.

- The discount rate utilized under the Income Approach was lower than what we might have expected.
    - Two different betas and a "regulatory premium" were applied with no explanation contained within the Presentation.
    - No adjustment was made for Company specific risk.
- A capitalization of benefits method was not discussed or included within the Presentation.
- No industry methods or rules of thumb were discussed or included within the Presentation.
- The conclusion of value contained within the Presentation was expressed as the weighted average of three methods.
    - Despite the fact that this practice is contrary to Revenue Ruling 59-60, no explanation is provided for the use of weighting of the three methods.

We have also considered certain other areas of interest within our review report; however we believe that the points listed above are of primary concern. That being said and considering the limitations of the nature and amount of information included in a presentation format as opposed to a fully-contained appraisal report as defined by SSVS-1, we cannot draw any conclusions as to the effect of the underlying information that we did not receive. Noting certain factors, assumptions, and differences in theory and based upon the analyses performed, we have recalculated the potential value of the Company under the methods utilized in the Presentation.

	Value ($ in Millions)	**Recalculated Value**		
Comparable Transaction Analysis	$536,000	$540,000		
Comparable Company Analysis	558,000	511,300	-	535,800
Discounted Cash Flow Analysis	753,000	680,000		
Estimated Fair Market Value	**$650,000**			
Overall Potential Recalculated Range		**$511,300**	**-**	**$680,000**

Based upon the table above, it appears that the estimated fair market value for the Company shown on slide 71 of the Presentation is consistent with our overall range of recalculated value. Therefore, excluding those points noted previously, it is our opinion that conclusion of value of the common equity of CollegeAmerica as of September 30, 2012 on a control, non-marketable basis contained within the Presentation is likely fairly stated and consistent with fair market value.

However, we requested additional information and have not received that as of the date of this report. The information requested, but not received may have had a significant impact on our conclusion.

ASSUMPTIONS AND LIMITING CONDITIONS

This valuation review is subject to the following assumptions and limiting conditions:

1) The Appraisal Review analyses arrived at herein are valid only for the stated purpose as of the date of the valuation.

2) Public information and industry and statistical information have been obtained from sources we believe to be reliable. However, we make no representation as to the accuracy or completeness of such information and have performed no procedures to corroborate the information.

3) This report and the analyses arrived at herein are for the exclusive use of our client for the sole and specific purposes as noted herein. They may not be used for any other purpose or by any other party for any purpose. Furthermore the report and analyses are not intended by the author and should not be construed by the reader to be investment advice in any manner whatsoever. The Appraisal Review represents the considered opinion of Blue & Co., LLC, based on information furnished to them by you, Barrington and other sources.

4) Neither all nor any part of the contents of this report (especially the analyses within, the identity of any valuation specialist(s), or the firm with which such valuation specialists are connected or any reference to any of their professional designations) should be disseminated to the public through advertising media, public relations, news media, sales media, mail, direct transmittal, or any other means of communication, including but not limited to the Securities and Exchange Commission or other governmental agency or regulatory body, without the prior written consent and approval of Blue & Co., LLC.

5) Future services regarding the subject matter of this report, including, but not limited to testimony or attendance in court, shall not be required of Blue & Co., LLC unless previous arrangements have been made in writing.

6) We have not visited the premises and we have not made a physical inspection of the property. No investigation of legal fee or title to the property has been made, and the owner's claim to the property has been assumed valid. No land survey has been made. No appraisals of real or personal property have been made by Blue & Co., LLC.

7) No change of any item in this appraisal report shall be made by anyone other than Blue & Co., LLC, and we shall have no responsibility for any such unauthorized change.

8) Unless otherwise stated, no effort has been made to determine the possible effect, if any, on the subject business due to future Federal, state, or local legislation, including any environmental or ecological matters or interpretations thereof.

9) If prospective financial information approved by management has been used in our work, we have not examined or compiled the prospective financial information and therefore, do not express an audit opinion or any other form of assurance on the prospective financial information or the related assumptions. Events and circumstances frequently do not occur as expected, and there will usually be differences between prospective financial information and actual results, and those differences may be material.

10) We have not conducted interviews with the current management of the Entity, or their representatives, concerning the past, present, and prospective operating results of the entity.

11) Except as noted, we have relied on the representations of Barrington and other third parties concerning the value and useful condition of all equipment, real estate, investments used in the business, and any other assets or liabilities, except as specifically stated to the contrary in this report. We have not attempted to confirm whether or not all assets of the business are free and clear of liens and encumbrances or that the entity has good title to all assets.

12) The approaches and methodologies used in our work did not comprise an examination in accordance with generally accepted accounting principles, the objective of which is an expression of an opinion regarding the fair presentation of financial statements or other financial information, whether historical or prospective, presented in accordance with generally accepted accounting principles. We express no opinion and accept no responsibility for the accuracy and completeness of the financial information or other data provided to us by others. We assume that the financial and other information provided to us is accurate and complete, and we have relied upon this information in performing our valuation.

13) The Appraisal Review may not be used in conjunction with any other appraisal or study. The analyses in this report are based on the program of utilization described in the report, and may not be separated into parts. The review was prepared solely for the purpose, function and party so identified in the report. The report may not be reproduced, in whole or in part, and the findings of the report may not be utilized by a third party for any purpose, without the express written consent of Blue & Co., LLC.

14) Unless otherwise stated in the report, the Appraisal Review has not considered or incorporated the potential economic gain or loss resulting from contingent assets, liabilities or events existing as of the valuation date.

15) In all matters that may be potentially challenged by a Court or other party we do not take responsibility for the degree of reasonableness of contrary positions that others may choose to take, nor for the costs or fees that may be incurred in the defense of our recommendations against challenge(s). We will, however, retain our supporting workpapers for your matter(s), and will be available to assist in defending our professional positions taken, at our then current rates, plus direct expenses at actual, and according to our then current Standard Professional Agreement.

16) Any decision to purchase, sell or transfer any interest in the subject entity or its subsidiaries shall be Entity ownership's responsibility, as well as the structure to be utilized and the price to be accepted.

17) The selection of the price to be accepted requires consideration of factors beyond the information we will provide or have provided. An actual transaction involving the subject business might be concluded at a higher value or at a lower value, depending upon the circumstances of the transaction and the business, and the knowledge and motivations of the buyers and sellers at that time. Due to the economic and individual motivational influences which may affect the sale of a business interest, Blue assumes no responsibility for the actual price of any subject business interest if sold or transferred.

18) All facts and data set forth in our letter report are true and accurate to the best of the Blue's knowledge and belief.

19) We have no responsibility or obligation to update this report for events or circumstances occurring subsequent to the date of this report.

20) Our Appraisal Review, shown herein, pertains only to the subject business, the stated value standard (fair market value), as at the stated valuation date, and only for the stated valuation purpose(s).

21) Our report will not be used for financing, or included in a private placement or other public documents and may not be relied upon by any third parties.

22) The report assumes all required licenses, certificates of occupancy, consents, or legislative or administrative authority from any local, state or national government, or private entity or organization have been or can be obtained or reviewed for any use on which the analyses contained in the report are based.

23) Blue & Co., LLC does not consent to be an expert with respect to matters involving the Securities and Exchange Commission. For purposes of this report, the foregoing sentence means that Blue & Co., LLC shall not be referred to by name or anonymously in any filing or document. Should you breach this stipulation and refer to Blue & Co., LLC by name or anonymously, you will amend such filing or document upon written request of Blue & Co., LLC.

24) We express no opinion for matters that require legal or other specialized expertise, investigation, or knowledge beyond that customarily employed by business appraisers.

25) Unless stated otherwise in this report, we express no opinion as to: 1) the tax consequences of any transaction which may result, 2) the effect of the tax consequences of any net value received or to be received as a result of a transaction, and 3) the possible impact on the market value resulting from any need to effect a transaction to pay taxes.

26) All of the assumptions and limiting conditions are in addition to, and not in lieu of, those found in the report body and Certification section of the report

VALUATORS' REPRESENTATION[9]

I certify to the best of my knowledge and belief that:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed and this report has been prepared to my best effort to be in conformity with the American Institute of Certified Public Accountants, Uniform Standards of Professional Appraisal Practice, the Business Valuation Standards of the American Society of Appraisers, the Institute of Business Appraisers and the Standards of the National Association of Certified Valuation Analysts.
- The American Society of Appraisers has a mandatory recertification program for all of its senior members. All senior members (ASA designation) signing this report are in compliance with that program.
- No significant professional assistance was provided to the persons signing this report.

[9] Representation in satisfaction of the USPAP Certification requirement.

Additionally, I certify to the best of my knowledge and belief that:

- I am not a party to the transaction, am not related to any party to the transaction, am not married to any person with a relationship to the transaction, am not regularly used by any of the parties to the transaction and do not perform a majority of appraisals for these persons.

- I hold myself out to the public as a valuation practitioner and perform appraisals of privately-held businesses on a regular basis.

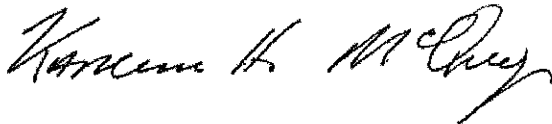
- I am qualified to make appraisals of the type of property being valued including, by background, experience, education, and memberships in professional associations.

- I understand that an intentionally false or fraudulent overstatement of value may subject me to a civil penalty.

- My fee is not based upon a percentage of the appraised value of the property.

Sincerely,

Bradley H. Minor, CPA/ABV/CFF, ASA, CVA, CMEA, Director



Kameron H. McQuay, CPA/ABV, CVA, Director

BRADLEY H. MINOR, CPA/ABV/CFF, ASA, CVA, CMEA

General Data

Indianapolis Business Address:
12800 N. Meridian St., Ste. 400
Carmel, IN 46032-9443

Evansville Business Address:
401 S.E. 6th Street, Suite 204
Evansville, IN 47713

Telephone:
Direct and Fax: 317.428.6841
Cell: 812.455.2030
Email: bminor@blueandco.com
Website: www.blueandco.com

BIO

Brad started with Blue in 1989 with a degree in business (accounting major) from Indiana University. Brad began performing business valuations in 1990. He is a Certified Valuation Analyst (CVA) and an Accredited Senior Appraiser (ASA) – Business Valuation member of the American Society of Appraisers. Additionally, he is a Certified Public Accountant (CPA) and has earned the AICPA's specialty designations for business valuators (ABV) and forensic accountants (CFF). He is also a Certified Machinery and Equipment Appraiser (CMEA) member of the National Business Brokers Association.

Brad was elected to Director in 2008 and has overseen the firm's Valuation and Financial Forensics Group since 1999. He performs business valuations, assists with real estate and machinery & equipment appraisals, and has supported attorneys and clients in various areas of litigation. Brad has given presentations on various topics such as: family limited partnerships, valuing construction companies, valuing professional practices, valuing ESOPs, valuing healthcare entities, business valuation standards and general business valuation topics.

Brad served on the AICPA Business Valuation Committee (2003 through 2007) and has served as a member of the AICPA's "Ask the Experts" Technical Advisory Panel and the "ABV Mentor Program." He has served as chairman of the Litigation Support Group of AGN International – North America. He served on the Editorial Advisory Board and was a frequent contributor of articles to the national publication "National Litigation Consultant's Review." He is the co-author of the June 1997 book entitled "Valuation of a Closely Held Business" for Research Institute of America, a national business publisher.

EDUCATION

Indiana University, Bloomington, IN (Graduated 1989)
BS Business (Accounting Major)

PROFESSIONAL DESIGNATIONS

- Certified Public Accountant (CPA), Indiana, 1992
- Certified Valuation Analyst (CVA), 1994 (National Association of Certified Valuation Analysts)
- Diplomate of the American Board of Forensic Accounting 1997, (The American College of Forensic Examiners)
- Accredited in Business Valuation (ABV), 1998 (American Institute of Certified Public Accountants)
- Accredited Senior Appraiser (ASA) in Business Valuation, 2000 (American Society of Appraisers)
- Certified in Machinery and Equipment Appraisals (CMEA), 2005 (National Equipment & Business Brokers Institute)
- Certified in Financial Forensics (CFF), 2008 (American Institute of Certified Public Accountants)
- Fellow of the American College of Forensic Examiners (FACFEI), 2008 (The American College of Forensic Examiners)

BUSINESS HISTORY

Blue & Co., LLC, Director of Valuation and Litigation Services Department *1990 to Present*
Indianapolis, Indiana and Evansville, Indiana

Brad has been working in the valuation and litigation support services department since 1990 and has overseen the department for the firm since 1999. This department provides a full range of services, including business valuation, insurance loss claims, forensic accounting, budgeting, forecasting, business plans, assisting with real estate and machinery and equipment appraisals, and support to attorneys in virtually all areas of litigation, including expert testimony and consultation. The majority of Mr. Minor's time is spent in this area. Mr. Minor also consults regularly with closely held businesses in all areas of their operations and is responsible for tax consulting and planning for several corporate and individual tax clients.

Blue & Co., LLC, Senior in Tax Department *1989 to 1990*
Indianapolis, Indiana

Experience in the tax department included working directly with clients in planning and compliance with tax laws. Areas of experience include corporate, partnership, and individual taxation, buying and selling of businesses, and divorce taxation issues.

Internal Revenue Service, Internal Revenue Agent *1987 to 1988*
Evansville, Indiana

Held this position originally as a co-op student while attending I.U. and later on a part-time basis during senior year of college. Exposed to all areas within organization including audit, collection, and criminal investigation. Main responsibilities were those of a normal revenue agent, auditing individual and small business tax returns.

ASSOCIATION AND CIVIC MEMBERSHIPS AND ACTIVITIES

- American Institute of CPA's (Business Valuation Exam Review Course Task Force 1998 – 2002, Fundamentals of Business Valuation (FBV) Task Force 2002, Business Valuation Committee 2003 - 2007). Business Valuation Volunteer of the Year Award recipient 2001
- Indiana CPA Society (Litigation Committee 1996)
- Accountants Global Network ("AGN") (Litigation Support Committee 1995/1996, Committee Chairman 1996/1997 and 1997/1998)
- American Society of Appraisers (Indiana Chapter Secretary 1998/1999, 2000/2001; Vice President 2001/2002)
- Member of the Institute of Business Appraisers
- Member of the American College of Forensic Examiners
- Member of the Estate Planning Council of Indianapolis

LECTURES, WRITINGS, SPEECHES, SEMINARS, COURSES, ETC.

- "Valuations A to Z - Part 2, Specific Methods & Techniques", Columbus Bar Association, with Jeffry Moffatt and Gina Grote, Columbus, OH, June 11, 2012.
- "Business Valuation for the Divorce Attorney", Evansville Bar Association, with Jarit Loughmiller, Evansville, IN, March 23, 2012.
- "Estate and Gift Tax Case Update", Hoosier Hills Estate Planning Council, Bloomington, IN, with Dave Maschino, John Kotlarczyk, and Kristine Bouaichi, February 16, 2012.
- "Benchmarking in Physician Practice Valuations", Webinar for The Healthcare Practice Group (HPG) and the National Association of Certified Valuation Analysts, September 30, 2010 and January 27, 2011.
- "BV Practice Management Toolkit" American Institute of Certified Public Accountants, Contributing Author, aicpa.org/FVS, 2009.
- "New Exposure Draft of Proposed Statement on Standards for Valuation Services (SSVS)" Accountant's Global Network Business Valuation Teleconference, December 14, 2006.
- "The Value of Valuations in Healthcare" Ohio Society of CPA's Health Care Conference, with Kam McQuay and Alex Fritz, November 14, 2006.
- "Tips for Starting a BV Practice" Journal of Accountancy, September 2006.
- "ASC's... If You Don't Know What the Acronym Means You Probably Shouldn't Value Them" National Litigation Consultant's Review, March 2006.

- "Review of "The Expert Witness Handbook, Tips and Techniques for the Litigation Consultant" by Dan Poynter", National Litigation Consultant's Review, December 2005.
- Lead editor and reviewer for "Business Valuation Practice Management Toolkit" American Institute of Certified Public Accountants, November 2005.
- "A "Scrushy" Situation", National Litigation Consultant's Review, October 2005.
- "It's a Rate, Rate, Rate, Rate World", National Litigation Consultant's Review, August 2005.
- "AICPA Business Valuation Standards", Accountant's Global Network, North American Regional Meeting, May 18, 2005, St. Louis, MO.
- "Back to the Basics, Legal Lingo 101", National Litigation Consultant's Review, May 2005.
- "How the BV Professional Can Work Effectively with Non-BV Appraisers (Co-Authored with Dr. Brent C Smith)", National Litigation Consultant's Review, March 2005.
- "Seak, Inc.'s "National Guide to Expert Witness Fees and Billing Procedures (Review of)", National Litigation Consultant's Review, December 2004.
- "Expert Preparation of the Expert Witness (a primer for litigation support team members)", National Litigation Consultant's Review, August 2004.
- "New BV Standards and Other AICPA Matters", Accountant's Global Network, North American Regional Meeting, May 25, 2004, Palm Springs, CA.
- "Using Management Planning, Inc.'s Restricted Stock Study", National Litigation Consultant's Review, March 2004.
- "Be Prepared for New AICPA Standards", National Litigation Consultant's Review, February 2004.
- "Litigation Services and Applicable Standards (Review of)", National Litigation Consultant's Review, December 2003.
- "Down on the Farm Damages", National Litigation Consultant's Review, August 2003.
- "Market Approach Methods", Accountant's Global Network, North American Regional Meeting, May 20, 2003, Cincinnati, OH.
- "Library Organization", National Litigation Consultants' Review, May 2003.
- "Come to the Fight Heavily Armed", National Litigation Consultants' Review, March 2003.
- "OneSource", National Litigation Consultants' Review, December 2002.

- "A Time to Shred", National Litigation Consultants' Review, October 2002.
- Review and assistance on "Be a Bulldog", National Litigation Consultants' Review, August 2002.
- "Sweating the Small Stuff", National Litigation Consultants' Review, May 2002.
- "Do I Need to File a Gift Tax Return", Blue Notes, Spring 2001 and The Business Edition (formerly the Columbus Business Scene), July 2001.
- "To ABV or Not to ABV", The CPA Consultant, Newsletter of the AICPA Consulting Services Section, February/March 2001.
- *"Business Killers"*, Indiana's Midwest Builders Convention, February 11, 2000, Indianapolis, IN.
- *"Valuation Case Analysis"*, National Association of Certified Valuation Analysts (NACVA) Indiana Chapter Meeting, Discussion Leader, August 17, 1999, Indianapolis, IN.
- "Internal Revenue Service Acquiesces in Capital Gains Discount Case", Blue Notes, Spring 1999.
- *"The Business of Litigation Support"*, Accountants Global Network (AGN) International World Congress, October 23, 1998, San Diego, CA.
- *"Valuation of Specific Assets"*, Indiana Continuing Legal Education Forum (ICLEF) Selected Topics in Probate Administration, October 17, 1997, Indianapolis, IN.
- Co-author of *"Valuation of a Closely Held Business"*, Research Institute of America, June, 1997, Copyright 1997.
- *"ESOPs Succession Planning"*, NBD Bank, May 1, 1997, Indianapolis, IN.
- *"Tax & Pension Aspects of ESOPs"*, The Indiana ESOP Association Professionals Meeting, March 13, 1997, Indianapolis, IN.
- *"Business Valuation Potpourri"*, Blue & Co., LLC Firmwide Audit and Accounting Training Seminar, September 20, 1996, Indianapolis, IN.
- *"Valuation of Construction Companies"*, Construction Industry Task Force Reunion, AGN, June 15, 1996, Fort Collins, CO.
- *"Valuation of the Practice"*, Indiana Continuing Legal Education Forum (ICLEF) <u>What Happens When the Professional/Executive Dies?</u> Seminar, December 5, 1995, Indianapolis, IN.
- *"Business Valuations"*, American Society of Women Accountants, November 16, 1995, Indianapolis, IN.

- *"Family Limited Partnerships, Brief Overview of Business Valuations"*, Indianapolis Chapter of CLU and ChFC, September 12, 1995, Indianapolis, IN.

- *"What is Litigation Support? Why a Business Valuation?"* Blue & Co. Firmwide Tax Training Seminar, November 20, 1991, Indianapolis, IN.

SELECTED BUSINESS VALUATION AND LITIGATION SUPPORT COURSES AND TRAINING

- American Society of Appraisers, Employee Stock Ownership Plans (ESOP) Valuation Course (BV206); Anaheim, CA, October 1995.
- American Society of Appraisers, Business Valuation Selected Advanced Topics (BV204); Indianapolis, IN April 1995, Passed BV204 Exam.
- National Association of Certified Valuation Analysts, Business Valuation and Certified Valuation Analysts (CVA) Training Program; Salt Lake City, Utah; November 1994.
- Partnerships and Other Pass-Through Entities; New York University, NY; July 1994.
- American Society of Appraisers, Business Valuation Case Study (BV203); Passed BV203 Exam; Denver, CO; May 1994.
- Tax Consequences of Buying and Selling a Business, sponsored by the IU Graduate School of Business; Indianapolis, IN; December 1993.
- AGN Business Valuation Seminar; Passed Introduction to Business Valuation (BV201) and Business Valuation Methodology (BV202) Exams; St. Louis, MO; May 1993.
- AGN, Litigation Support Training Seminar; Denver, CO; September 1992; San Diego, CA, September 1999.

KAMERON H. MCQUAY, CPA/ABV, CVA

General Data

Indianapolis Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.713.7933
Email: kmcquay@blueandco.com
Website: www.blueandco.com

EDUCATION

University of Evansville – Evansville, Indiana
Bachelor of Science – Finance

ACADEMIC HONORS

Graduated with Honors
Guthrie May Award Winner – Most Outstanding Graduate

BUSINESS HISTORY

Blue & Co., LLC, Director *1992 to Present*

Coordinates services to physicians and their group practices. Responsibilities include development of Firm Marketing and Quality Control System as it relates to physician entities.

Additional responsibilities include corporate compliance activities for both hospital and physicians' organizations, Indiana Medicaid reimbursement issues, operational assessments of healthcare organizations, compliance and HIPAA impact, business valuation for Healthcare facilities, oversight of hospital acquisition programs, as well as a frequent speaker to physician and hospital groups.

Harding Shymanski & Co., Healthcare Professional Division-Manager *1989 to 1992*

Responsible for all aspects of consulting service engagements including office practice set-up, accounting and financial management issues, coding and reimbursement analysis, billing and collection reviews, adoption of retirement plans and personal financial planning for physicians. Directed the activities of employees in the Healthcare Department.

Harding Shymanski & Co., Staff Accountant *1983 to 1989*

Delivered high quality audit and accounting services to various clients. Managed engagements for small and large audit clients requiring concurrent supervision of multiple engagement teams ranging from two to six professionals. Responsibilities also included the review and preparation of corporate and individual income tax returns.

PROFESSIONAL AND CIVIC MEMBERSHIPS

American Institute of Certified Public Accountants
Indiana CPA Society
National Association of Certified Valuation Analysts
Medical Group Management Association
Indiana Medical Group Management Association
Healthcare Financial Management Association
Indiana University – Purdue University Indianapolis
  Adjunct Faculty, School of Public and Environmental Affairs
Child Advocacy Center
  Past President and Director
Young Life of Evansville
Young Life of Carmel
  Committee Member
Accountants Global Network
  Healthcare Professionals Executive Committee
Carmel-Clay School District
  High School Soccer Coach

JEFFRY M. MOFFATT, CPA/ABV/CITP, CVA

General Data

Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.275.7405
Email: jmoffatt@blueandco.com
Website: www.blueandco.com

EDUCATION

Indiana University, Kelley School of Business
Master of Professional Accountancy
Bachelor of Science in Business – Computer Information Systems

BUSINESS HISTORY

Blue & Co., LLC, Manager *2008 to Present*

A member of the Valuation and Healthcare Strategy Group primarily focused on the analysis and development of methods for aligning hospitals, healthcare systems and other healthcare related entities with physician groups and other care providers. Additional healthcare industry related services provided include physician and practice benchmarking, physician compensation analysis and practice management and assessment.

Also a member of Valuation and Forensic Services, providing business valuations, litigation support and other valuation consulting and appraisal services.

Prestige Group, Inc., Assistant Controller *2005 to 2008*

Primarily responsible for billing and reimbursement of subcontracted services for a domestic and international logistics services broker with operations in Indianapolis, IN, Dallas, TX and Houston, TX. Created internal billing and payment systems controls through the development of database systems tying together several disparate operations, sales and accounting systems.

PROFESSIONAL AND CIVIC MEMBERSHIPS

- American Institute of Certified Public Accountants – Accredited in Business Valuation (ABV) Champion
- Indiana CPA Society
- National Association of Certified Valuators and Analysts
- Healthcare Financial Management Association

- American Health Lawyers Association
- Indiana University Master of Health Administration Program Mentor
- United Way Emerging Leaders Program
- The Earth House Collective – Executive Board of Directors

LECTURES, WRITINGS, SPEECHES, SEMINARS, COURSES, ETC.

- "Healthcare Reform: The Rx for Physicians", *The Financial Diagnosis*, Kentucky Healthcare Financial Management Association, August 2010.
- "Owners' Compensation in Physician Practice Valuations" National Association of Certified Valuators and Analysts, September 14, 2010, October 14, 2010 and January 20, 2011.
- "Benchmarking Physician Practices" National Association of Certified Valuators and Analysts, September 23, 2010, October 26, 2010 and January 27, 2011.
- "Effects of Healthcare Reform: The 2011 Outlook for Physician Practice Valuations", *The Value Examiner*, November/December 2010.
- "Healthcare Valuation – What you Need to Know!", National Association of Valuators and Analysts State Chapter 2010, Tri-Annual Meeting (Indiana), November 19, 2010.
- "Valuing Medical Practices For a Divorce in the Current Healthcare Environment", *Valuing Professional Practices and Licenses, Third Edition*, Wolters Kluwer Law & Business, 2012.
- "Valuation A to Z (Part One): Fundamentals and Applications", Columbus Bar Association (Ohio), May 30, 2012.
- "Valuation A to Z (Part Two): Specific Methods and Techniques", Columbus Bar Association (Ohio), June 11, 2012.
- "Financial Projections and Financial Statement Adjustments for Valuation", National Association of Valuators and Analysts State Chapter 2010, Tri-Annual Meeting (Indiana), July 20, 2012.
- "Valuating Healthcare Transactions and Agreements", Columbus Bar Association (Ohio), October 5, 2012

MICHAEL L. UENG, CPA/ABV, CVA

General Data

Indianapolis Business Address:
One American Square, Ste. 2200
Indianapolis, IN 46282

Telephone:
Business: 317.633.4705
Direct and Fax: 317.275.7416
Email: mueng@blueandco.com
Website: www.blueandco.com

EDUCATION

University of Michigan, Ross School of Business
Master of Accounting
Bachelor of Business Administration with emphases in Accounting and Finance

BUSINESS HISTORY

Blue & Co., LLC, Manager — *2009 to Present*

A member of the Valuation and Healthcare Strategy Group and a key contributor in providing healthcare practice management services, specifically focusing on business valuations for physician practices, hospitals and other healthcare related entities.

Clifton Gunderson, LLP, Assurance Senior Associate — *2006 to 2008*

Performed reviews of Indiana, Ohio, and Mississippi Cost Reports of long-term care and mental health providers with responsibility for planning engagements, managing fieldwork, reviewing work of staff, and completing final report. Trained entire healthcare group during implementation of paperless audit software.

Worked on performance audits of Medicaid Management Information System (MMIS) of fiscal intermediary for the state of Indiana and State Children's Health Insurance Plan administrator for the state of Mississippi, and assisted in recalculation of Medicaid certified public expenditures by all public hospitals in the state of Alabama for Medicaid and DSH settlement.

PROFESSIONAL AND CIVIC MEMBERSHIPS

American Institute of Certified Public Accountants
National Association of Certified Valuation Analysts
Indiana CPA Society
Healthcare Financial Management Association

MEMORADUM

TO: Board of Directors of CEHE
From: Jay Mercer, Counsel to the Board
Re: Minimum Due Diligence

As discussed at our most recent meeting, the level of due diligence necessary for this transaction is driven by the comfort level of the transaction decision makers; CEHE Board of Directors. I have been requested to provide the Board with an outline of the minimum due diligence that I would recommend. This list of minimum due diligence requirements is based on the following assumptions:

- Barney will contribute as a charitable gift the value of the goodwill of the colleges.
- CEHE will purchase the tangible assets of the colleges at fair market value.
- The financing of the purchase of the tangible assets will be collateralized based on a pledge of the tangible assets and personal guarantee from Barney.
- Barney shall provide an indemnification agreement that will be backed by a bond or letter of credit or other appropriate collateral.
- The CEHE Board of Directors shall remain active participants of the Board for term of 3 years following the merger.

<u>Minimum Due Diligence Review</u>:

1. A meeting between Carl Barney, CEHE Board members and Barney's proposed Board members.
2. Review of the organizational records of each merging corporations and LLCs, including Articles, Bylaws, Resolutions and minutes.
3. Review of financial statements for last 3 years.
4. Review of any employment agreements with the term in excess of one year.
5. Review of any consulting management or professional agreements a term in excess of one year.

6. Review of any employment, consulting, management, professional or vendor agreements with individuals " related" to Carl Barney or "related" to any current Board Member, LLC Member and/or highly compensated individuals affiliated with the merger organizations. ("Related" means related to each other through family or business relationships). *

7. Review of summary plan description for any employee benefit plans.

8. Review of any collective bargaining or labor relations agreements.

9, Review of any policies of tenure or policies that restrict "at-will" employment.

10. Review of any notices, claims, audits, or other official notices investigation by the Internal Revenue Service, United Department Education or any State or local regulatory agency which the corporation s or LLCs have received within the last three years.

11. Review of any compliance or settlement agreements with any governmental agency or accrediting organization regarding operational, financial or educational deficiencies or regulatory compliance.

12. Certificates of accreditation from accrediting organizations.

13. Contracts, commitments, notes, debt instruments, security agreements, leases, guarantees that have a term of exceeds one year.

14. Appraisals of all personal property, real estate and goodwill by an appraiser in good standing with the American Society of Appraisers in accordance with USPAP requirements.

15. Organizational chart for each college.

16. Description of any payments, agreements or pledges for support of political candidate or party or used in support of or to influence legislation. *

17. All contracts with any individuals or organizations to raise funds for the corporations.(Professional fund raising). *

18. Descriptions of any Joint ventures, partnerships or affiliations with organizations that will not terminate and/or merger on or before the closing of the transition.*

19. Description of any intellectual property to be sold as part of the sale.

20. Copies of tax returns for the past three years for each organization being merged.

21. Description of any loan to or by a current or former officer, director, trustee, key employee, highly compensated employee.*

19. Description of any on-going settlement payments or compensation arrangement, such as a severance payment to a former employee that will continue after the merger or are not fully funded.

20. Description of all unfunded and/or uninsured liabilities.

21. Description of any and all pending or threatened litigation.

22. Description of any of the following services provided by the corporations or LLCs to any officer, director or employee: first class or charter travel, travel cost for companions, tax indemnification, housing allowance for personal residence, sports or social club memberships, personal services(e.g. maid, chauffer, chef).*

Minimum Representations and Warranties:

Due Organization - in good standing under and by virtue of the laws of its state of organization.

Corporate Power and Authority - possesses the requite authority to enter into the transaction.

Marketable Title – good title to the property sold.

ERISA Complaint- compliant in all employee benefit plans.

Licenses and Accredited- fully licensed and accredited in each state as a college.

Environmental Compliance - substantial compliance with all Environmental laws and the has never been any release or threatened release or disposal of hazardous waste solid waste or other waste is occurring or has occurred on under or to any real property which COLLEGES have an interest.

Taxes – current in all tax obligations.

Compliance with Laws – no known violations of law.

Insurance – all property currently insured.

* Transactions that would need to be unwound as they could jeopardize the tax exempt status of CEHE following the merger.

EXHIBIT 20

Eric Juhlin

From:	Eric Juhlin
Sent:	Thursday, March 31, 2016 10:58 AM
To:	'robin.minor@ed.gov'; Finley, Steve (Steve.Finley@ed.gov); douglas.parrott@ed.gov; Michael Frola (michael.frola@ed.gov)
Cc:	Guida, Tony
Subject:	Update on CEHE's Financial Stability
Attachments:	20160331 - CEHE Notice to DOE of 1.5 Composite Score for FY2015.pdf; CEHE 12-31-15 Audit - Signed.pdf

Dear Ms. Minor, Mr. Parrott, Mr. Finley, and Mr. Frola:

Please review the attached letter and audit report.

Sincerely,

Eric S. Juhlin
Chief Executive Officer
Center for Excellence In Higher Education
4021 South 700 East, Suite 400
Salt Lake City, UT 84107
801-622-1555 office