

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	
)	CASE NO. 1:19-CV-145
Plaintiff,)	
)	JUDGE DAN AARON POLSTER
v.)	
)	
SOUTH UNIVERSITY OF OHIO, LLC,)	
<i>et al.</i>)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
Defendants.)	

**STUDENT INTERVENORS’ MEMORANDUM IN SUPPORT
OF VACATING ORDER APPOINTING RECEIVER**

In accordance with this Court’s February 25, 2019 Order (Dkt. 69),¹ Student-Intervenors Emmanuel Dunagan, Jessica Muscari, Robert J. Infusino and Stephanie Porreca (“Student Intervenors”)² submit this Memorandum in support of vacating the order appointing the Receiver.

On January 18, 2019, Plaintiff filed this action, asserting that a receivership in this case would “serve to protect dozens of campuses, thousands of students, Defendants assets and their stakeholders.” Dkt. 3 at 3. *See also* Dkt. 7 at 3 (noting Defendants’ agreement that “the imposition of a receivership serves to protect all stakeholders,” including “the students”). The fundamental justification for the receivership was to avoid a bankruptcy filing, *i.e.*, an event that would render

¹ References to “Dkt.” in this pleading are to docket entries in the above captioned action, *Digital Media Solutions vs. South University of Ohio, LLC*, 1:19-cv-00145-DAP. References to docket entries in the companion case, *Dottore v. Studio Enterprise Manager, LLC*, 1:19-cv-00380-DAP will be designated “Studio Dkt.”

² Student Intervenors are named representatives in a proposed class-action lawsuit against the Illinois Institute of Art LLC, the Illinois Institute of Art-Schaumburg, LLC, and Dream Center Education Holdings LLC, three of the entities in Receivership, pending in the United States District Court for the Northern District of Illinois. *See Dunagan et al. v. Illinois Institute of Art, LLC, et al.*, No. 19-cv-0809 (N.D. Ill.).

DCEH, South University Ohio and the other schools ineligible to receive the principle source of their revenues. 20 U.S.C. § 1002(a)(4)(A); 34 C.F.R. § 600.72(a)(2); *see also* Dkt. 3 at 2-3. But that justification is now largely, if not entirely, moot. The Department of Education has ended Title IV participation for Argosy University, the largest system under the Receiver’s management, and the Receiver has agreed to transfer many of the Art Institutes that are still open. Dkt. 82-1.

Furthermore, as described below, the circumstances of the Receiver’s appointment, and developments during the receivership, do not provide confidence that the interests of students are being protected. This court should either dissolve the receivership or replace the current Receiver—who was handpicked by DCEH—with a genuinely neutral receiver and require that the receivership be conducted with greater accountability and transparency than has been provided to date.

I. PURPOSE OF THE DREAM CENTER RECEIVERSHIP

The appointment of a receiver by a federal court “is an extraordinary equitable remedy that is justified only in extreme situations.” *See Netsphere, Inc. v. Baron*, 703 F.3d 296, 305 (5th Cir. 2012); *Steinberg v. Young*, 641 F. Supp. 2d 637, 644 (E.D. Mich. 2009). It should not “do more harm than good.” *Id.* For that to occur, creditors and interested parties must have confidence in the impartiality of the receiver—particularly where the receivership order constrains the assertions of their interests through other means (reimbursement, foreclosure, eviction, litigation). *Sterling v. Stewart*, 158 F.3d 1199, 1201 n.2 (11th Cir. 1998) (receiver “is a neutral court officer appointed by the court”); *see also Gulf Refining Co. of La. v. Vincent Oil Co.*, 185 F 87, 89-90 (5th Cir. 1911) (a receiver is “an indifferent person between the parties, appointed by the court . . . [to] secure [] funds which this court . . . will have the means of distributing among the persons entitled to those funds”). These attributes are all the more important here, where the ostensible purpose for these

financially-compromised institutions to be placed in receivership rather than bankruptcy is to protect students. Dkt. 3 at 2; Dkt 7-1 ¶ 18.

II. CIRCUMSTANCES OF THE RECEIVER’S APPOINTMENT

The Receiver for DCEH was selected by DCEH, not the Court. In its unopposed motion to appoint a receiver, Plaintiff DMS asserted that Mr. Dottore was “uniquely qualified” for the position *because* he had “been serving as a consultant for DCEH and the Universities since October 2018.” Dkt. 3 at 11-12. He and his team were hired to familiarize themselves with the entities’ financial condition and business operations, and to participate in business transactions with the Department of Education. *Id.* As of the date he was appointed Receiver, Mr. Dottore had already provided 300 hours of services to DCEH and met with the undersecretary of the U.S. Department of Education about the “dire financial condition of DCEH and the Universities and their plan to restructure, including potential plans to seek the immediate appointment of a federal receiver.” *Id.* at 12.

Documents filed with this Court after Mr. Dottore’s appointment establish that DCEH had been trying to get him appointed receiver since at least November 2018. *See* Studio Dkt. 9 at 5 (“DCEH informed Studio it was contemplating entering into a receivership at the end of November 2018”; “DCEH introduced Studio to Mark Dottore, the individual who would purportedly be appointed as receiver.”). In between then and the January 18, 2019 lawsuit by DMS that resulted in his appointment, Mr. Dottore invited a lawsuit against DCEH by South University’s landlord—going so far as to prepare a draft complaint against DCEH for that purpose—to create the conditions for his appointment. Dkt 47-8 (December 7, 2018 email from Robert Kracht to “Greg” at gg.geisco.net) (Exh A).³ That invitation apparently was not accepted. However, as intervenor

³ Notably, December 7 was the day after the Student Intervenors filed their class action lawsuit in Cook

3601 Sunflower LLC explained in its Motion to Vacate the Receiver Order, it appears likely that the receivership was arranged with DMS the same way: “DMS coordinated its filing with the Defendants so Defendants could immediately consent to the Order appointing the receiver”; “In essence, DMS just provided the vehicle by which Defendants could orchestrate the appointment of a receiver over themselves.” Dkt. 54-1 at 2.

The unorthodox origins of this receivership diminish public and creditor confidence in its fair administration, raising at least the appearance of conflicts of interests regarding financial transactions that took place while Mr. Dottore was consulting for DCEH. This is particularly so given that Mr. Dottore, as the Receiver, is now responsible for addressing these same transactions in his capacity as Receiver. Developments since that time magnify those concerns.

III. DEVELOPMENTS DURING THE RECEIVERSHIP

Four major developments have occurred in the 45 days since the Receiver was appointed.

First, it came to light that Argosy University campuses have not distributed student loan stipends owed to their students, leaving them unable to pay for living expenses like rent, mortgages, child care and groceries. *See* Rachel Leingang, “Argosy University Withholding Financial Aid. Students Can’t Pay Their Bills.” *Arizona Republic* (Feb. 8, 2019), *available at*: <https://www.usatoday.com/story/news/education/2019/02/08/argosy-university-financial-aid-closing-receivership-accreditation/2817950002/>. As this story has unfolded, Mr. Dottore has provided a series of vague and often contradictory accounts of where the money went, including, in one court filing, claiming that the money was “not missing.” Dkt. 55. Challenged on this, Dkt.

County, Illinois, seeking tuition reimbursement damages in excess of \$10 million. Dkt. 35-2. Even though DCEH had concluded that the financial circumstances giving rise to a receivership had existed since at least that date, it did not petition for a receivership to protect DCEH and its schools’ assets at that time, but instead waited until January 18, 2018, when it apparently collaborated with DMS to bring the lawsuit in Ohio, where Mr. Dottore could be appointed.

65, the Receiver then acknowledged that

there may be irregularities in the method and manner used by some or all of the pre- Receivership Dream Center Entities to request Title IV funding, in particular with respect to draw downs of accelerated student funding (“**Student Stipends**”). It appears that amounts improperly requested by the pre-Receivership Dream Center Entities and then advanced by the United States Department of Education were not remitted to students . . . It also appears that when the funding was received by the pre-receivership Dream Center Entities, it was used to pay their operating expenses.

Dkt. 68 (emphasis in original). The Receiver reported, a full month after media reports revealed that Argosy students had not received their stipends, that he was in the “*preliminary* stages of a detailed, forensic investigation.” *Id.* (emphasis added). Today, the Receiver submitted a Report, in which he disclosed that: “DCEH and Argosy were altering their submissions to the [Department of Education] to reflect that the Student Stipend had been paid when in fact it had not been paid” and then “voided their bookkeeping entries that showed the student had been paid and paid operating expenses with the money rather than paying the Student Stipend.” Dkt. 91 at 11. No information is provided about *who* at DCEH and Argosy did this, or what “operating expenses” were paid with the diverted funds, subjects that the Receiver should be prepared to address at the March 8 status conference.

The Department of Education has determined that the failure to pay the stipends is “a severe breach of the required fiduciary standard of conduct . . . and demonstrates a blatant disregard of the needs of its students.” Letter from Michael J. Frola to Mark Dottore, Receiver (February 27, 2019) (Frola Letter) (Exh. B) at 4.⁴ As a result of these and other actions, the Department

⁴ The Argosy students are not the only students to whom DCEH is responsible who are being deprived of funds that are rightfully and legally theirs. As the Department of Education’s website explains, students from at least The Art Institute of Pittsburgh, The Art Institute of Las Vegas, and The Art Institute of Seattle have also not received their stipends. See U.S. Department of Education, Federal Student Aid, “Information About Credit Balance Refunds Owed to Argosy Students,” *available at*: <https://studentaid.ed.gov/sa/about/announcements/dream-center#credit-balance-refunds> (last visited March 4, 2019).

terminated Argosy’s participation in Title IV (*id.* at 3)—the preservation of which was the primary rationale for the Receiver’s appointment. Dkt. 3 at 2.

It remains unclear whether the apparent diversion of student stipends lays at the feet of the pre-receivership entities or the post-receivership entities or both. It is similarly unclear to the Student Intervenors what information the U.S. Department of Education had during this crisis. The Court’s direction to the Receiver to invite the Department of Education to participate in the March 8, 2019 status conference is a welcome development in this regard. Dkt. 80.⁵

Second, the Receiver filed a lawsuit and Motion for Temporary Restraining Order against Studio Enterprise Managers, demanding payments he claims were owed as a result of DCEH’s sale on January 7, 2019 of many of its Art Institute and South campuses, and seeking a rescission of that sale. Studio Dkt. 1 and 2. The Receiver asserted: “On information and belief, the Receiver alleges that the Studio deal was presented by the Department of Education as a ‘Take it, or we’ll cut of your funding today’ prospect . . .”. Studio Dkt. 2-1 at 9-10. However, according to Studio, Mr. Dottore, while acting in his pre-receivership capacity as consultant to DCEH, was “intimately involved” in the reorganization plan that resulted in the sale of schools to Studio (Studio Dkt. 9 at 3)—information which DCEH and the Receiver had never disclosed in their Response to the Emergency Motion to Appoint a Receiver or in the lawsuit against Studio. Indeed, the “[o]n information and belief” qualification of his allegations about the deal suggests otherwise.

The Receiver and Studio have submitted a proposed settlement to the Court that, to the best

⁵A recent letter from the American Psychological Association (APA) to Secretary DeVos further underscores why the Department’s participation in the March 8 hearing is important. The APA letter describes the critical and urgent need for the Department to step in and immediately assist psychology students enrolled at eight APA-accredited Argosy institutions, explaining that these students are “in crisis” and that the Department “must do more to protect, serve, and guide these students now.” *See* Letter from Arthur C. Evans, Jr., Chief Executive Officer, APA to Secretary DeVos (March 1, 2019) (Exh. C).

of the Student Intervenors' understanding, ends all management services to the Argosy students. Dkt. 82-1. In the absence of Title IV funds, management services, or stipends so students can pay living expenses, it is not clear whether or how the Receiver intends to keep Argosy open. (*See* Dkt. 80, Order Requiring Detailed Organization Chart, Plan for Funding Operations).

Third, as a result of the recent intervention by Thomas Perrelli, the Settlement Administrator for the Consent Judgment between DCEH and the states (Dkt. 77), Student Intervenors have learned that the Receiver has failed to fulfill its assurances to the Settlement Administrator “that the receivership filings would reflect the receiver’s obligations under the Consent Judgment generally, and regarding Corrective Action Plans specifically.” Dkt 77-1 at 10-11. “[T]he receivership filings [have been] silent about the Consent Judgment, and the Receiver. . . . has declined to affirm any intention to fulfill a Corrective Action Plan for the affected students.” *Id.* at 11. The Student Intervenors *are* those affected students.

Fourth, the Receiver gutted Argosy’s faculty, rendering the schools academically nonfunctional. As the Department explains:

On February 7, 2019, the Receiver terminated the employment of Argosy’s chancellor, and nearly 100 Argosy faculty, academic support personnel and financial aid counselors. Those employees were terminated despite the Receiver’s repeated assurances to the Department that it would not do so. Additionally, the Department has been advised that this process was so disruptive that professors were called out of classrooms while they were teaching and their employment terminated.

Frola Letter (Exh. B) at 5. The Department found that the Receiver’s actions resulted in “substantial and irreparable damage to the academic integrity of Argosy” such that the school could no longer provide the academic programs described in its official publications. *Id.*

IV. THE EXISTING RECEIVERSHIP ORDER SHOULD BE VACATED

The predominant rationale for the Receivership, rather than traditional bankruptcy, was the preservation of the receivership schools’ access to Title IV funds while the Receiver attempted to

sell the schools or make arrangements for “teach-out” for students whose schools were closed. In the case of the Argosy schools, which comprise most of the student population under the Receiver’s supervision, that rationale no longer applies. As described above, the Receiver has also ignored his responsibilities under the Consent Judgment, including to the Student Intervenors.

Presumably if the Receivership is vacated, DCEH will seek protection in Bankruptcy Court—which will result in the appointment of a trustee, and the orderly processes under the Bankruptcy Code for the protection and collection of assets and presentment of claims by creditors. Presently, any efforts to protect and collect assets—including the diverted student loan funds—are completely opaque to students and DCEH’s creditors, and no process has been established for the presentment of claims.

Alternatively, if the Receivership continues, it should do so under new stewardship. DCEH handpicked Mr. Dottore as its Receiver, ostensibly to “save the receivership estate all of the time and expense of bringing the new person up to speed where time is of the essence to protect the interests of the students.” Dkt. 3 at 12. But when the interests of Argosy students in receiving stipend funds to pay living expenses were genuinely at stake, Mr. Dottore deflected responsibility for the whereabouts of the money,⁶ and only belatedly acquiesced to conducting a forensic investigation into its disappearance. He also blamed DCEH’s financial condition in part on an “unconscionable” transaction with Studio, forced on DCEH by the Department of Education (Studio Dkt. 2-1), without disclosing his own involvement in the transaction. Studio Dkt. 9 at 1 (Mr. Dottore was “intimately involved” in the reorganization plan). Rather than leveraging his

⁶ See Leingang, *supra* (“‘We’re still trying to determine whose fault it is,’ Dottore said. ‘All I know is, I haven’t been here long enough for it to be mine.’ Dottore said he hopes to have a resolution within the ‘next day or so.’ ‘I do not — repeat, do not — have this money, nor would I be hanging onto it if I had,’ he said.”).

prior involvement and knowledge about DCEH's operations, the Receiver has functioned in his present capacity as if he is walled off from the knowledge he accumulated in his prior capacity. The Receiver's straddling of his prior involvement with DCEH creates at least the appearance of a conflict of interest while conferring no apparent benefits on students or other creditors.⁷

Student Intervenors' confidence in the Receivership is also undermined by the revelations by three different actors that the Receiver has not fulfilled commitments he made to them: to the Department of Education that it would not fire Argosy faculty, Frola Letter (Exh. B) at 5; to the Settlement Administrator that it would recognize its obligations under the Consent Judgment, Dkt 77-1 at 10-11; to Studio that it would "consult with Studio prior to filing any receivership action," Studio Dkt. 9 at 12.

Finally, if the Receivership continues, particularly if it does so under Mr. Dottore's stewardship, the Student Intervenors urge the Court to institute procedures that provide more accountability and transparency, especially to students. The difficulty—still persisting—in getting answers about the whereabouts of the Argosy students' stipend money is emblematic of a process where business interests are being hammered out behind closed doors, but nothing is being done to help, or forthrightly communicate to, students who have claims on the estate or are trying to pursue their education. The Student Intervenors respectfully request that if the Receivership continues, the Court require the Receiver to report weekly on the assets and liabilities under his management, his efforts to recover assets (including the diverted stipend funds), his efforts to

⁷ The Department of Education has also noted that the circumstances of the Receiver's appointment should have left him better informed about, and better equipped to deal with the problematic transactions that occurred pre-receivership: "this is not a situation where the appointed receiver is new to the financial circumstances and obligations of the receivership estate upon his or her appointment. The Receiver had been serving as a consultant to DCEH and the receivership schools (including Argosy) since October 9, 2018 in various areas, including in regard to the receivership schools' financial conditions and strategies, and also to work with governmental and regulatory agencies." Frola Letter (Exh. B) at 4.

protect students' educations through sales of campuses or other means, and other transactions that may affect current students, students with claims, and other creditors. The Student Intervenors also request regular status conferences to address these items and other issues that arise during the receivership.

CONCLUSION

For the above stated reasons, the Student Intervenors respectfully request that the Court vacate the Order appointing the Receiver.

Respectfully Submitted,

/s/ Richard S. Gurbst

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was served upon all parties of record by the Court's electronic filing system this 4th day of March 2019.

/s/ Richard S. Gurbst

Richard S. Gurbst
One of the Attorneys for Intervenors

Exhibit A

From: "Kracht, Robert R." <rrk@mccarthylebit.com>
Date: December 7, 2018 at 7:25:01 AM EST
To: "'gg@geisco.net'" <gg@geisco.net>
Subject: South Univ. of Ohio, LLC re: Hemingway at Richmond, LLC Premises located at 4743 Richmond Road, Warrensville, Hts., Ohio

Greg:

As Mark Dottore explained your tenant and its affiliates, and parent entities are in the process of a restructure that ordinarily would occur through a Ch. 11 bankruptcy proceeding. Because of the students that attend the South University campus in your building and the thousands of others attending other campuses around the country would lose their ability to complete their college studies, a Ch. 11 filing would cut off what they call Title IV funding to fund what they call "teach outs" at various campuses so those students could finish any pending semester and then transfer to another college, or one of the campuses that are contemplated to be sold by the parent of South University to a proposed buyer.

The alternative to a Ch. 11 bankruptcy is a federal court receivership. As you may know Mark was a receiver for Meyers University in Cleveland a number of years ago and has substantial experience with a matter of that type and for that reason, among others, he has been selected by the principals of South University's parent entities to as the proposed receiver. At present Mark is their consultant.

In order to have a basis to be in federal court that would have jurisdiction over South University and be in a position to thereafter seek the appointment of Mark as receiver, the lawsuit would have to be filed by a creditor of South University in the Federal Court sitting in Cleveland. Since your company, Hemingway at Richmond, LLC is the landlord of the South Univ. of Ohio campus on Warrensville Road, your company would be in the best position to facilitate a lawsuit to sue for breach of your lease in order to invoke the federal courts jurisdiction.

I am attaching a draft complaint that asserts a claim against South University for breach of the Hemingway lease agreement. As you can see there are several fill in the blank places within the draft complaint were those items, such as date any notice of default was sent and the amount of your claim against South University under the lease, as long as that claim is at least \$75,000 or more (the monetary jurisdictional cut off) and provided Hemingway at Richmond, LLC, as an Ohio LLC, and its members, are diverse (citizens of a state other than the home state of South Univ or its ultimate parent (that being the states of Arizona and California)), then the two basis jurisdictional requirements that a plaintiff must meet to invoke the federal courts jurisdiction would be met.

2



The lenders for South University's parent entities are putting extreme pressure on the entities and the US Department of Education is currently sporadically releasing only limited funds that have contributed to a significant financial crisis. South Universities parent entities believe that the only viable alternative to preserve a going concern value of the colleges and protect the interests of the students and creditors, is to pursue the federal receivership. The first, and initially most import step if the commencement of a lawsuit in an appropriate federal court where the next step after that suit is filed would be the filing of a motion by South University for the appointment of a federal receiver, like Mark, to take over its affairs and the affairs of all other campuses around the country, in order to safeguard the assets, protect the students, and promptly consummate a going concern sale of a substantial portion of the campuses of South Univ. and its affiliates, Argosy University and the Art Institutes.

Please review and contact me or Mark to discuss.

Robert R. Kracht ▪ Principal ▪ McCarthy, Lebit, Crystal & Liffman Co., LPA
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Confidentiality Notice to Incorrect Addressee: <http://www.mccarthylebit.com/confidential-communication/>

Exhibit B



February 27, 2019

Mark Dottore
Dottore Companies
2344 Canal Road
Cleveland, OH 44113

Sent Overnight Via UPS
#1Z A87 964 02 9010 7619

Randall K. Barton
Chairman of the Board
Dream Center Education Holdings

Re: Denial of Change of Ownership
Argosy University
OPE ID: 02179900

Dear Mr. Dottore and Mr. Barton:

The Multi Regional and Foreign School Participation Division (“MRFSPD”) of the U.S. Department of Education (“Department”) has reviewed Argosy University’s (“Argosy” or “the Institution”) application for approval of a change in ownership or structure resulting in a change of control (“CIO”). Prior to the CIO, Argosy was owned by Education Management Corporation (“EDMC”). The CIO was accomplished pursuant to the terms of the Amended and Restated Purchase Agreement dated February 24, 2017 (“ARPA”) between EDMC and its affiliates (“Sellers”), and the Dream Center Foundation (“DCF”), a California nonprofit corporation, and its affiliates, including Dream Center Education Holdings, LLC (“DCEH”). The CIO, which was accomplished in two closings (in October 2017 and January 2018) also included other EDMC-affiliated institutions – certain of the Art Institutes and South University.¹ The parties to

¹The following institutions were included in the CIO:

Argosy University (02179900)
South University (01303900)
Miami International University of Art & Design (00887800)
The Art Institute of Houston (02117100)
The Art Institute of Atlanta (00927000)
The Art Institute of Seattle (02291300)
The Art Institute of Portland (00781900)
The Art Institute of Fort Lauderdale (01019500)
The Art Institute of Phoenix (04051300)
The Art Institute of Colorado (02078900)
The Illinois Institute of Art (01258400)
The Art Institute of Pittsburgh (00747000)
The Art Institute of Philadelphia (00835000)

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Federal Student Aid, School Participation Division – Multi-Regional and Foreign Schools
830 First Street UCP, NE Washington, DC 20202
StudentAid.gov

the ARPA also requested the Department's approval of the institutions' conversion to nonprofit status as a result of its new ownership under DCF. This letter only addresses the Department's determination in regard to Argosy.

The Department has determined that the application for the CIO and the request to convert to nonprofit status cannot be approved because the Institution does not meet certain required standards, as explained below. Accordingly, Argosy's participation in the student financial assistance programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* ("Title IV, HEA programs") is ended as of the date of this letter in accordance with 34 C.F.R. § 600.20(h)(2)(ii).

To establish eligibility and to continue participation in the Title IV, HEA programs, an institution must demonstrate to the Department that, after the change in ownership and control, the institution qualifies to be certified to participate under 34 C.F.R. Part 668, Subpart B. 34 C.F.R. § 600.31(a)(3)(ii). Pursuant to 34 C.F.R. § 668.13(a), for the Department to certify Argosy to participate in the Title IV, HEA programs, it must qualify as an eligible institution under 34 C.F.R. Part 600, meet the standards of financial responsibility set forth at 34 C.F.R. § 668.15 and 34 C.F.R. Part 668, Subpart L, and meet the standards of administrative capability set forth at 34 C.F.R. § 668.16. Further, to participate in any Title IV, HEA program, the institution must meet the fiduciary standard of conduct set forth at 34 C.F.R. § 668.82(a) and (b)(1). Based on its current financial situation, and in particular, its failure to pay Title IV, HEA credit balances owed to its students and parents, Argosy does not meet any of these standards.

I. ARGOSY DOES NOT MEET THE FIDUCIARY STANDARD OF CONDUCT

Following the CIO, DCEH officials entered into a temporary provisional program participation agreement ("TPPPA") with the Department on October 17, 2017, allowing Argosy to continue to participate in the Title IV, HEA programs subsequent to its purchase by DCEH. A material term of the TPPPA was Argosy's agreement to comply with all Title IV, HEA program requirements, which include the requirement to hold all funds it receives under the Title IV, HEA programs in trust² for the intended student beneficiaries and the Department. 20 U.S.C. § 1094(a)(1); 34 C.F.R. §§ 668.14, 668.161(b). As a trustee of those funds, Argosy is prohibited from using or hypothecating the funds for any other purpose. Argosy is subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. § 668.82(a), (b) (fiduciary standard). The Department has determined that Argosy's failure to properly administer the Title IV, HEA program funds entrusted to it constitutes a grievous breach of its fiduciary duty to the Department.

The Department first placed Argosy on the heightened cash monitoring payment method set forth in 34 C.F.R. § 668.162(d)(1) ("HCM1") on March 1, 2007. Argosy continued on HCM1 until it was placed on the payment method set forth in 34 C.F.R. § 668.162(d)(2) ("HCM2") on January 25, 2019. The Department places an institution on heightened cash management (either

² The only exception is for funds provided by the Department for administrative expenses and funds used for the Job Location and Development Program under 34 C.F.R. Part 675, Subpart B.

HCM1 or HCM2) when the institution's financial circumstances necessitate a higher level of scrutiny.³

Under both HCM1 and HCM2, an institution must credit a student's ledger account for the amount of Title IV, HEA program funds that the student or parent is eligible to receive, and pay the amount of any credit balance due under 34 C.F.R. § 668.164(h), before the institution submits a request for funds to the Department. *See* 34 C.F.R. § 668.162(d)(1) and (2). A Title IV, HEA credit balance occurs whenever the amount of program funds credited to a student's ledger account for a payment period exceeds the amount assessed the student for allowable charges associated with that payment period. 34 C.F.R. § 668.164(h)(1). The credit balance must be paid directly to the student or parent as soon as possible, but no later than 14 days after the balance occurred if the credit balance occurred after the first day of class of a payment period; or 14 days after the first day of class of a payment period if the credit balance occurred on or before the first day of class of that payment period. 34 C.F.R. § 668.164(h)(2). The regulatory requirement that all institutions on heightened cash monitoring pay credit balances to students and parents prior to obtaining funds from the Department was specifically designed to ensure that student beneficiaries are protected when institutions experience financial difficulties.

In late December 2018, as DCEH was threatening receivership, the Department placed the DCEH schools on "route pay." This protection was put in place so that funds would not be automatically released to DCEH, but would have to be manually released by the Department. On January 18, 2019, the federal court in the Northern District of Ohio appointed Mr. Dottore as the receiver ("Receiver") over DCEH and its subsidiaries, thereby subjecting Argosy to the receivership. The complaint in that action, the motion seeking an appointment of a receiver, and the receivership order all describe dire financial circumstances confronting DCEH and its subsidiaries. When an institution is subject to a receivership order, the Department promptly places that institution on HCM2. Here, the Department provided advance notice to DCEH that its schools would be placed on HCM2 in the event of a receivership. On January 25, 2019, following the appointment of the Receiver on January 18th, the Department transferred Argosy to HCM2.

In late January 2019, the Department began to hear numerous complaints from students and parents that Argosy had failed to pay credit balances owed to its students. As an institution on heightened cash monitoring (on HCM1 and later, on HCM2), Argosy was required to first pay student Title IV, HEA credit balances⁴ before submitting a request for payment to the Department. 34 C.F.R. § 668.162(d). Not only did Argosy fail to pay credit balances prior to submitting its requests for payment from the Department, even after Argosy received the funds, it still failed to pay those credit balances.

On February 6, 2019, the Department requested the Receiver to provide a list of all of unpaid credit balance stipends that Argosy owed to students. On February 7, 2019, the Department received a summary table and a zip file of unpaid student stipends. The student level detail in the zip file showed that Argosy had not paid stipends totaling \$16,299,840, including stipends

³ The Department has sole discretion to determine the method under which it provides Title IV, HEA program funds to an institution. The Department may provide these funds under the advance payment method, reimbursement payment method, or heightened cash monitoring payment method. 34 C.F.R. § 668.162(a).

⁴ Argosy refers to these credit balances as "stipends."

for students at Western State College of Law. The summary chart indicated that \$10,400,059 of those stipends had been unpaid for at least 14 days (the summary chart does not include the law school). *See* e-mail from D. Linscott (Dottore Companies) with summary chart, attached hereto as Exhibit 1 (because the zip file has student level detail, it is not included in Exhibit 1). Also on February 7, 2019, the Receiver sent a letter to the Department regarding the disposition of the Title IV, HEA funds that the Department paid to Argosy between January 1, 2019 and February 5, 2019. The Cash Flow statement enclosed with the letter showed that although Argosy received \$12,955,761 in Title IV, HEA program funds during that time period, Argosy paid \$4,289,010 to its staff, paid \$2,178,879 to vendors, paid \$1,768,875 to DCEH for payroll expenses, and maintained \$3,811,883 in the receivership account, instead of ensuring that all Title IV, HEA credit balances were paid to its students and parents. *See* Mark Dottore letter to Diane Auer Jones, dated February 7, 2019, attached hereto as Exhibit 2.

The Department released approximately \$9.2 million to Argosy on January 15, 2019, just days before the Receiver was appointed on January 18, 2019. Another \$2.8 million was released on January 29, 2019, following the appointment of the Receiver. Although the receivership estate may have been cash-strapped at the time of the Receiver's appointment, student credit balances were required to be paid under HCM1 and HCM2 regulations before DCEH (and now the Receiver) obtained reimbursement from the Department. Significant funds were released by the Department since mid-January, including after the Receiver was appointed, which should have been used to pay the existing unpaid credit balances owed to students. The Receiver also knew or should have known of the requirements to release the students' credit balance stipends to them, and assured the Department that the credit balance problem would be resolved.⁵

As set forth in the motion requesting the appointment of a receiver (Doc. 3 in the N.D. Ohio case), this is not a situation where the appointed receiver is new to the financial circumstances and obligations of the receivership estate upon his or her appointment. The Receiver had been serving as a consultant to DCEH and the receivership schools (including Argosy) since October 9, 2018 in various areas, including in regard to the receivership schools' financial conditions and strategies, and also to work with governmental and regulatory agencies. Nevertheless, it appears that no plan was in place to ensure that student credit balances were being paid in accordance with the regulations.

Argosy's actions in failing to pay Title IV, HEA credit balances is a severe breach of the required fiduciary standard of conduct to disburse the student's Title IV, HEA program funds to them, and demonstrates a blatant disregard of the needs of its students.⁶

⁵ On February 19, 2019, the Receiver submitted a report to the court in the receivership action (Doc. 55) arguing that the credit balance funds were "not missing" and that the receivership estate never had the funds to pay student credit balance stipends, and therefore the credit balances did not need to be paid, asserting that the payment of the credit balances was "stalled over a 'chicken and egg' debate." Doc. 55 at 2. On February 22, 2019 the Receiver submitted an updated report (Doc. 68), acknowledging that there may have been "irregularities in the method and manner" in the draw downs of student stipends. Despite the fact that significant funds were drawn down days before the January 18th receivership order, that some funds were drawn down after the order, and the fact that the Receiver had been acting as a consultant for DCEH and the receivership schools since October 2018, the Receiver places all blame for the failure to properly pay the credit balances on the "pre-receivership Dream Center Entities." Doc. 68 at 2.

⁶ Argosy only earns the Title IV, HEA program funds as they are credited to the student accounts to pay for tuition and fees. These credit balance "stipends" are funds the students have borrowed to cover their living expenses and

II. ARGOSY DOES NOT MEET THE STANDARDS OF FINANCIAL RESPONSIBILITY

To begin and to continue to participate in the Title IV, HEA programs, an institution must demonstrate to the Secretary that it is financially responsible under the standards established by the Department. *See* 34 C.F.R. § 668.15, 34 C.F.R. Part 668, Subpart L. As provided under 20 U.S.C. § 1099c(c)(1), the Department determines whether an institution is financially responsible based on the institution's ability to: provide the services described in its official publications and statements; meet all of its financial obligations; and provide the administrative resources necessary to comply with Title IV, HEA program requirements. 34 C.F.R. §§ 668.15(b), 668.171(a), 668.171(b)(3).

As noted above, the pleadings in the receivership case describe the serious financial difficulties facing all of the receivership schools, including Argosy. Indeed, in the January 18th receivership order, the court specifically found that DCEH and its subsidiaries were indebted to secured, trade, and unsecured creditors for sums in excess of \$100,000,000 (Order at ¶3).

In addition, the Department has learned that Argosy has ceased to provide instruction at its additional location in Phoenix, Arizona (02179907) because it was locked out of the premises, and is holding classes at Ottawa University, a location for which it is not authorized. Students have reported that they do not have access to computer labs or to all of the equipment or books needed for their classes. Argosy's failure to maintain and operate its Phoenix school at an approved location is further evidence of the institution's lack of financial responsibility and is inconsistent with the institution's fiduciary duty to the Department.

Further, on February 7, 2019, the Receiver terminated the employment of Argosy's chancellor, and nearly 100 Argosy faculty, academic support personnel and financial aid counselors. Those employees were terminated despite the Receiver's repeated assurances to the Department that it would not do so. Additionally, the Department has been advised that this process was so disruptive that professors were called out of classrooms while they were teaching and their employment terminated. These actions have resulted in substantial and irreparable damage to the academic integrity of Argosy, and accordingly violate the requirements of financial responsibility set forth in 34 C.F.R. § 668.15(b) and 668.171(a), because Argosy can no longer provide the services, including academic programs, described in its official publications and statements. Moreover, students who are close to graduation are at risk for not being able to be licensed to practice in psychology if Argosy's programs no longer meet programmatic accreditation requirements due to the faculty terminations.

are not Argosy's funds to spend. Argosy's students are in many cases dependent upon the receipt of these credit balance funds to, among other things, make rent or mortgage payments, pay for childcare, and buy groceries – all of which are acceptable living expenses that are part of the cost of attendance upon which the Title IV, HEA program aid was awarded.

III. ARGOSY HAS FAILED TO MEET THE STANDARDS OF ADMINISTRATIVE CAPABILITY

To begin and to continue to participate in any Title IV, HEA program, an institution must demonstrate to the Department that the institution is capable of adequately administering the program under each of the standards established in 34 C.F.R. § 668.16. The Department considers an institution to have that administrative capability if the institution administers the Title IV, HEA program in accordance with all statutory provisions of or applicable to Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority, and all applicable special arrangements and agreements entered into under the authority of statutes applicable to Title IV of the HEA. 34 C.F.R. § 668.16(a).

In addition, the institution must designate a capable individual to be responsible for administering all the Title IV, HEA programs in which it participates; use an adequate number of qualified persons to administer the Title IV, HEA programs in which the institution participates; administer the Title IV, HEA programs with adequate checks and balances in its system of internal controls; establish and maintain records required under 34 C.F.R. Part 668, Subpart B and the individual Title IV, HEA program regulations; and provide adequate financial aid counseling to eligible students who apply for Title IV, HEA program assistance. 34 C.F.R. §§ 668.16(b)(1), (b)(2), (c)(1),(d)(1),(h).

Since learning of the credit balance problem, the Department has requested rosters and other information regarding the credit balances. The information that has been submitted on behalf of Argosy has been incomplete and/or inconsistent with other information provided on behalf of Argosy or with the Department's records, which raises serious questions about the Institution's administrative capability.

In addition, for all of the reasons described in Sections I and II above, Argosy has also failed to meet the standards of administrative capability.

IV. CONCLUSION

As detailed in this letter, the violations involved here are serious, and the potential harm to students and taxpayers is severe. Therefore, Argosy's application for approval of its change of ownership and conversion to nonprofit status is hereby denied.

Should Argosy have evidence to dispute the Department's findings, and demonstrate their inaccuracy, Argosy may submit that evidence via overnight mail to me at:

U.S. Department of Education
Federal Student Aid/PC
830 First Street NE
Union Center Plaza, 7th Floor
Washington, DC 20202-5340

If any such information is received by March 11, 2019, it will be reviewed and Argosy will be notified if the denial is modified or rescinded. Unless the Department modifies or rescinds the

denial, Argosy's eligibility to participate in the Title IV, HEA programs is ended effective the date of this letter, February 27, 2019.

In the event that Argosy submits an application to participate in the Title IV, HEA programs in the future, that application must address the deficiencies noted in this letter.

Please contact Tara Sikora at (215) 656-6488, or Tara.Sikora@ed.gov if you have any questions regarding the content of this notice.

Sincerely,

A black rectangular redaction box covering the signature of Michael J. Frola.

Michael J. Frola
Director
Multi-Regional and Foreign Schools Participation
Division

cc: WASC Senior College and University Commission
Arizona State Board for Private Postsecondary Education
California Bureau for Private Postsecondary Education
Colorado Division of Private Occupational Schools, Department of Higher Education
Florida Commission for Independent Education
Georgia Non-Public Postsecondary Education Commission
Hawaii Department of Commerce & Consumer Affairs
Illinois Board of Higher Education
Minnesota Office of Higher Education
Tennessee Higher Education Commission
Texas Higher Education Coordinating Board
Utah Department of Commerce
State Council of Higher Education for Virginia
Washington Student Achievement Council
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov

EXHIBIT 1

Sikora, Tara

From: Dave Linscott <dave@dottoreco.com>
Sent: Thursday, February 07, 2019 3:05 PM
To: Frola, Michael
Cc: Sikora, Tara; Puffer, Rhonda; Mark Dottore; 'Mary K Whitmer'
Subject: Student stipend data
Attachments: 2.7.19_RecieverRequest.zip

Attached is the student stipend data you requested. One for AU campuses and one for WSU campus.
Thanks
Dave

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Bird, Christopher" <clbird@argosy.edu>
Date: 2/7/19 2:57 PM (GMT-05:00)
To: Dave Linscott <dave@dottoreco.com>
Cc: "Caruso, James" <jcaruso@dcedh.org>
Subject: RE: Argosy/DCEH cash flow for 2019

Dave

Attached is the requested information for Argosy. There are two files embedded in this zip file. One for AU Campuses and one for WSU. Password will come in a separate email. When you forward this off make sure you also send the password separately. Thanks

Chris

From: Dave Linscott [mailto:dave@dottoreco.com]
Sent: Thursday, February 07, 2019 2:36 PM
To: Bird, Christopher
Subject: Re: Argosy/DCEH cash flow for 2019

Will i be able to forward file? I assume it complies with all the confidentiality rules and procedures etc that doe requires?

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Bird, Christopher" <clbird@argosy.edu>

Date: 2/7/19 2:28 PM (GMT-05:00)

To: Dave Linscott <dave@dottoreco.com>

Subject: RE: Argosy/DCEH cash flow for 2019

We just received the Argosy Campus file from Alison's group. I will send it over in the next 20 minutes as I have to convert it into winzip. We do not have anything from WSU at your this point. I will reach out and get an ETA

From: Dave Linscott [mailto:dave@dottoreco.com]
Sent: Thursday, February 07, 2019 2:27 PM
To: Bird, Christopher
Subject: Re: Argosy/DCEH cash flow for 2019

When can i promise this data to DOE?

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Bird, Christopher" <clbird@argosy.edu>

Date: 2/7/19 9:31 AM (GMT-05:00)

To: Dave Linscott <dave@dottoreco.com>, "Caruso, James" <jcaruso@dcedh.org>

Subject: RE: Argosy/DCEH cash flow for 2019

Hey Dave

I will work with Shelley and Alison to get this information for Argosy Campuses and the Ai Schools. We will need to wait for WSU as they are Pacific time and this process is handled by a different team.

Chris

From: Dave Linscott [mailto:dave@dottoreco.com]
Sent: Thursday, February 07, 2019 7:12 AM
To: Caruso, James; Bird, Christopher
Subject: Fwd: Argosy/DCEH cash flow for 2019

Are we able to send this stipend report easily?

Thanks

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Frola, Michael" <Michael.Frola@ed.gov>

Date: 2/6/19 4:20 PM (GMT-05:00)

To: Dave Linscott <dave@dottoreco.com>, Mark Dottore <mark@dottoreco.com>, 'Mary K Whitmer' <mkw@weadvocate.net>

Cc: "Sikora, Tara" <Tara.@ed.gov>, "Puffer, Rhonda" <Rhonda.@ed.gov>, "Frola, Michael" <Michael.Frola@ed.gov>

Subject: RE: Argosy/DCEH cash flow for 2019

Dave,

With the Cash Flow report please include a list of all students that have not been paid their stipends to date. Please include the students name, location, address, phone number, email address, program of study, and amount of unpaid stipend.

Please follow the procedures below when submitting Personally Identifiable information:

Passwords must be sent separately, with the same school identifiers in the subject line.

Protect Personal Identifiable Information and Encryption Instructions

Reports containing any Personal Identifiable Information (PII), as defined below, must be protected before transmitting the document electronically. PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, birth date, and place of birth). PII submitted electronically or on media must be submitted in a WinZip file (.zip file extension) encrypted with Advanced Encryption Standard (AES) encryption (256-bit is preferred). The Department of Education (the Department) uses WinZip. However, files created with other encryption software are acceptable provided that they are compatible with WinZip and are encrypted with AES encryption. Also, the Department must receive an access password to view the encrypted information. The password must be emailed separately from the encrypted data. Select a complex password at least 12 characters in length and which uses three of the following characters: upper case letter, lower case letter, number, special character.

Thanks,
Mike

From: Frola, Michael
Sent: Wednesday, February 06, 2019 3:28 PM
To: Dave Linscott; Mark Dottore; Mary K Whitmer
Cc: Sikora, Tara; Puffer, Rhonda (Rhonda.Puffer@ed.gov)
Subject: RE: Argosy/DCEH cash flow for 2019

Hi Dave,

Thanks for the notice. I've copied in Tara Sikora and our accountant Rhonda Puffer.

Please include them on the notice.

Thanks,

Mike

From: Dave Linscott [mailto:dave@dottoreco.com]
Sent: Wednesday, February 06, 2019 2:54 PM
To: Frola, Michael; Mark Dottore; Mary K Whitmer
Subject: Argosy/DCEH cash flow for 2019

Michael

We will be sending a summary cash flow report to you shortly.

We can discuss once you have a chance to review.

Thanks

David Linscott, CPA , CIRA

Dottore Companies

Sent from my Verizon, Samsung Galaxy smartphone

ARGOSY	< 10 Days	10-13 Days	14+ Days	Escalations	Total
Argosy University - Atlanta	79,962.70	56,063.25	1,563,191.90	-	1,699,217.85
Argosy University - Chicago	146,857.60	22,718.30	1,119,229.63	-	1,288,805.53
Argosy University - Dallas	13,046.00	8,640.00	18,425.00	-	40,111.00
Argosy University - Denver	-	-	286.00	-	286.00
Argosy University - Guam	-	-	2,148.50	-	2,148.50
Argosy University - Hawaii	67,549.00	54,063.60	641,911.29	-	763,523.89
Argosy University - Los Angeles	16,528.00	9,556.00	173,173.81	130.00	199,387.81
Argosy University - Northern Virginia	9,793.90	32,259.60	1,001,411.14	-	1,043,464.64
Argosy University - Online	571,982.00	1,674,355.84	1,414,479.71	16,799.00	3,677,616.55
Argosy University - Orange County	138,279.88	16,106.04	866,838.60	7,106.00	1,028,330.52
Argosy University - Phoenix	82,697.25	44,900.50	910,564.70	18,291.00	1,056,453.45
Argosy University - Salt Lake City	-	-	28,362.00	-	28,362.00
Argosy University - San Francisco	3,036.00	2,324.00	174,417.40	16,926.50	196,703.90
Argosy University - Sarasota	-	-	4,595.50	-	4,595.50
Argosy University - Seattle	-	505.00	6,762.00	-	7,267.00
Argosy University - Tampa	152,464.50	41,053.70	1,378,090.12	-	1,571,608.32
Argosy University - Twin Cities	52,576.20	46,524.60	1,032,629.91	689.00	1,132,419.71
TOTAL	1,334,773.03	2,009,070.43	10,336,517.21	59,941.50	13,740,302.17

AI GROUP 2 - ARGOSY	< 10 Days	10-13 Days	14+ Days	Escalations	Total
The Art Institute of California - Hollywood	13,551.24	13,914.00	50,610.77	-	78,076.01
The Art Institute of California - San Diego	7,780.00	3,242.00	12,931.00	-	23,953.00
TOTAL	21,331.24	17,156.00	63,541.77	-	102,029.01

EXHIBIT 2

February 7, 2019

Diane Auer Jones
Principal Deputy Undersecretary
United States Department of Education
400 Maryland Ave. SW
Washington, D.C. 20202

Re: Source and Application of Funds, January 2019

Non-Receivership Entities

AI Atlanta
AI Portland
AI Colorado
AI Houston
AI Fort Lauderdale
AI Miami
AI Chicago
South Savannah

Receivership Entities

AI Seattle
AI Pittsburgh
Argosy Orange County
AI Phoenix/Las Vegas

Dear Ms. Jones,

This letter, and its accompanying exhibits, is intended to account for \$50,933,320 of funds advanced from January 1 to February 4, 2019, to the Argosy, South and Art Institutes universities (the "Universities") listed above, both pre- and post-receivership. Through February 4, 2019, \$2,853,809 (\$2,824,880 + \$28,929) was advanced to the Receivership ("Post-Receivership Receipts"). An additional \$48,079,511 was advanced to the Universities prior to the appointment of the Receiver, and to the Non-Receivership entities between January 1 and February 4, 2019 ("Non-Receivership Receipts"). Please see the attached spreadsheet entitled "Receipts Summary" to see the recipients of the cash and the date the cash was received.

When the Receiver seized the cash accounts, there was \$5,478,585 in cash in all Receivership Entities' accounts. This cash was used by the Receiver to pay the

February 1, 2019, payroll of \$5,178,482. The figures are provided in the second spreadsheet entitled "AU & DCEH Cash Flow." The payment of the February 1, 2019, payroll leaves the Receivership Entities with only \$3,811,883 to manage all of their support and administrative services.

The Receivership's dire cash situation was born out of an early January series of agreements that were entered into by the Non- Receivership Entities that transitioned those entities into separate 501(c)(3) entities with independent boards of directors (the "Spin-Off"). The problem with the Spin-Off is that the Universities were really not separate entities for purposes of their non-academic operational management. The solution, they thought, was for all of the Universities to use a managed services company named Studio Enterprise Manager, LLC, ("Studio"). But Studio was not equipped to provide any services to the Universities, so Studio had agreements with DCEH to continue to provide all of the operational services to the Universities.

Given that DCEH was ultimately responsible to provide operational services to the Universities, the agreements anticipated a flow of service fees from the Department of Education to the Universities, then to Studio, then to DCEH. The funds were reduced by the fees that Studio was allowed to charge under these agreements. As DCEH is providing all of the operational services to the Universities, it is hard to understand why Studio is receiving substantial fees under its Managed Services Agreements. It is also our understanding that the Universities made their payments in advance, and Studio was required to send the money on to DCEH in arrears. At this point, it appears that over \$6 million is due to DCEH from Studio for services to support the Universities; this money may never be paid short of legal action.

We further understand "investors" were supposed to inject \$10,000,000 to make sure DCEH paid for the Universities' operations. Unfortunately, there was no cash investment into DCEH by anyone. If any investor cash was contributed, it was consumed by administrative expenses, legal fees and/or Studio management fees. We are still pursuing this line of inquiry to determine from whom this cash was expected, if it was paid, and if paid, to what use it was put.

We also believe that there was scattered matching of revenues and expenses among the Universities. For example, prior to the receivership, DCEH was saddled with a \$9 million payroll to pay employees in all of the Universities. Days later when draws on Title IV were made, it appears there was no allocation among the universities for these payroll expenses creating windfalls for the Non- Receivership Entities. Again, we are pursuing this matter with South and Art Institutes systems.

The purpose behind the reorganization in January was a laudable attempt to save the Non- Receivership Entities benefiting both students and taxpayers. However, it

is not working because the Universities in good faith have paid Studio, but Studio has decided to hold on to all monies for their own fees. If the problem cannot be resolved, DCEH will have to work with the Non-Receivership Entities so that they can support their own operations.

While the Receiver is concerned about all of the students, he has a direct fiduciary responsibility to the Argosy students. In order to meet that responsibility, the Receiver is implementing a plan to support the needed managed services at a greatly reduced cost. We intend to have that plan in place by March 1st with the approval of the independent board of Argosy.

The Receiver understands that, regardless of the situation among the Universities and Studio, the most critical need is to pay the \$13 million of Argosy student stipends. As the spreadsheets show, the Receiver's cash balance is only \$3,811,883. This is clearly not adequate to pay \$13 million of stipends due to the Argosy students and the situation must be urgently addressed.

In order to pay the student stipends, complete the semester, transition the Receivership Entities, address the Teach Out requirements, and meet the other regulatory requirements of the Department of Education and the Department of Justice, we plan to take the following action steps:

- On behalf of Argosy, the Receiver will request a \$13 million drawdown of the \$21 million in available funds to immediately pay all outstanding student stipends. Although Argosy is currently on HCM2, under these urgent circumstances, we are requesting a one-time exemption from the normal rules for the sake of the students who are in extreme need.
- Once the stipends are paid, on behalf of Argosy the Receiver plans to apply for the remaining \$7 million in G5 funds. These funds, combined existing balances of approximately \$3.8 million will fund Argosy operations and payroll for the remainder of the semester. There is also between \$3 million to \$6 million of additional draws available related to online starts in February and March.
- The Receiver will work with the independent boards and officers of South and Arts Institutes so that they can take over their own operating services at the earliest possible time.
- The Receiver intends to settle with or unwind the Studio transaction and recover the funds in Studio's hands.
- The Receiver is working with eight active potential purchasers and pursuing transitioning or selling the Receivership Entities as soon as possible.

We look forward to working with the Department of Education and the Department of Justice to transition these Universities to a soft landing, which is in the interest of every stakeholder.

Yours very truly,



**Mark E. Dottore
Receiver**

**cc: Jonathan E. Jacobson, Esq.
Department of Justice
Benjamin W. Butterfield, Esq.
Morrison & Foerster, LLP
James A. Newton, Esq.
Morrison & Foerster, LLP**

Enclosure

Title IV Receipts
Cash Flow by Day
1/1/19 - 2/5/2019

OFFER	Entity	1/2/2019	1/3/2019	1/7/2019	1/10/2019	1/12/2019	1/15/2019	1/16/2019	1/20/2019	1/21/2019	1/22/2019	1/23/2019	1/24/2019	1/29/2019	1/30/2019	2/4/2019	Total
Al Atlanta	AR	233,951	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4,159,362
Al Portland	AI DCEH	-	36,755	-	-	-	-	-	-	-	-	-	-	-	-	-	36,755
Al Seattle	AI DCEH	1,000	-	-	-	544,250	-	-	-	-	-	-	-	-	-	28,929	574,179
Al Pittsburgh	AI DCEH	1,143,182	-	-	-	-	-	2,362,281	-	-	-	-	-	-	-	-	3,505,463
Al Philadelphia	AI DCEH	17,377	-	-	-	-	-	-	-	-	-	-	-	-	-	-	17,377
Al Colorado	AI DCEH	-	2,329	-	-	-	-	-	-	-	-	-	-	-	-	-	2,329
Al Houston	AI	46,437	-	-	-	-	-	-	-	-	-	-	-	-	-	-	46,437
Argosy Orange County	AU DCEH	859,097	18,372	-	-	-	-	3,718,337	-	-	-	-	-	-	2,824,880	-	4,626,077
Al Fort Lauderdale	AI DCEH	-	36,138	-	-	-	-	3,723,500	-	-	-	-	-	-	-	-	3,759,638
Al Phoenix/Las Vegas	AI DCEH	32,786	-	-	-	-	-	-	-	-	-	-	-	-	-	-	32,786
Al Miami	AI	89,303	-	-	-	-	-	2,594,670	-	-	-	-	-	-	-	-	2,683,973
Al Chicago	AI DCEH	7,000	-	-	-	-	-	152,257	-	-	-	-	-	-	-	-	159,257
Al Savannah	South	1,651,050	-	-	-	-	-	9,504,335	-	-	-	-	-	-	-	-	11,155,385

Total Receipts

Entity	Receipts
All	\$ 12,485,679
AI DCEH	\$ 4,212,027
AU DCEH	\$ 12,955,761
South	\$ 21,269,853
Total	\$ 50,939,320

Cash Flow
Argosy/DCEH
1/1/19 - 2/5/2019

Argosy Cash Flow	Total	Pre- Receiver 1/1/19-1/20/19	Post Receiver 1/21/2019
starting balance	\$ -	\$ -	\$ 5,449,656
Title IV Receipts	\$ 12,955,761	\$ 10,101,952	\$ 2,853,809
1/18 Pay	\$ (2,147,583)	\$ (2,147,583)	
2/1 Pay	\$ (2,141,427)		\$ (2,141,427)
Stipends	\$ (907,114)	\$ (325,834)	\$ (581,280)
Other Vendor Payments	\$ (569,463)	\$ (569,463)	
Ø2L	\$ (305,773)	\$ (305,773)	
Twin Cities Rent	\$ (263,690)	\$ (263,690)	
TSA	\$ (1,609,416)	\$ (1,609,416)	
Current Balance	\$ 5,580,757	\$ 5,449,656	\$ 5,580,757

DCEH Cash Flow			
Starting Balance	\$ 11,300,000	\$ 11,300,000	\$ 1,268,180
Title IV Receipts	\$ 4,212,027	\$ 4,212,027	
1/4 Pay	\$ (9,508,425)	\$ (9,508,425)	
1/18 Pay	\$ (4,485,422)	\$ (4,485,422)	
2/1 Pay	\$ (3,037,055)		\$ (3,037,055)
Other Vendor Payments	\$ (250,000)	\$ (250,000)	
Current Balance	\$ (1,768,875)	\$ 1,268,180	\$ (1,768,875)
Receiver Cash balance	\$ 3,811,883		\$ 3,811,883

Exhibit C



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

March 1, 2019

The Honorable Betsy DeVos
Secretary of Education
Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

On behalf of the American Psychological Association (APA), I write to express serious concerns for doctoral psychology students enrolled at eight APA-accredited programs at Argosy University institutions. Some of these students are months away from graduating and entering the workforce to provide mental health care, help address the opioid crisis, and treat our veterans, among other vital contributions to society. Argosy's reported recklessness and alleged criminal actions showed little regard for their students. We believe that these students should not be penalized and their futures jeopardized because of Argosy University's mismanagement.

We respectfully request that you immediately establish a Real Time Response Center within the Office of the Ombudsman, staffed by knowledgeable representatives from the Department of Education, who have the technical expertise and authority to respond to specific concerns raised by these students. In addition, we request that you provide more timely, substantive, and improved updates for all 8,800 students enrolled at Argosy University institutions on the Department's Federal Student Aid website. APA staff have reviewed the Department of Education's website resources, FAQ, and portal set up for students, and have called the feedback line at 1-844-651-0077. We do not believe that these resources are adequate to provide students in crisis with the roadmap or solutions they need. While the Department of Education is acting as a clearinghouse for complaints, little advice and counsel is being given the students except directing them to www.studentaid.ed.gov. Given the significant impact on students and the lack of transparency by Argosy, we believe the Department must do more to protect, serve, and guide these students now.

Students enrolled in APA-accredited programs at Argosy are preparing for careers as psychologists. Their commitment to this profession comes at a critical time as our nation faces growing shortages of behavioral health providers; and individuals, families, and communities face increasing challenges because of trauma, depression, suicide, and the devastating opioid epidemic. These doctoral psychology students are poised to enter the behavioral health workforce and contribute to meeting the urgent needs of our nation. It is critical for the

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aevans@apa.org

Arthur C. Evans, Jr., PhD
*Chief Executive Officer and
Executive Vice President*

Department of Education to assist them in getting back on track with their education. APA respectfully asks that you use all means available to protect the doctoral students in psychology, and all Argosy University students, to help them back on a path of learning and degree completion.

There is an urgent need for action as many of these students are facing financial hardship, unsure about their graduation, and potentially unable to secure employment. Some students have been left without access to their federal loan dollars, putting basic needs like food and rent out of reach. Other students' transcripts are reportedly being withheld, limiting their ability to pursue alternative educational options. We ask that you act with urgency in this matter and put the needs of these students first.

APA is the leading scientific and professional organization representing psychology in the United States, with more than 118,400 researchers, educators, clinicians, consultants, and students as its members.

Thank you for your attention to our request. For further information, please contact Karen Studwell, JD, APA's Associate Executive Director for Government Relations, at kstudwell@apa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur C. Evans, Jr., Ph.D.", written in a cursive style.

Arthur C. Evans, Jr., PhD
Chief Executive Officer