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Congress of the United States
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COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON HIGHER EDUCATION AND WORKFORCE INVESTMENT
SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY EDUCATION
COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON MIDDLE EAST, NORTH AFRICA, AND GLOBAL COUNTERTERRORISM
SUBCOMMITTEE ON ASIA, THE PACIFIC, CENTRAL ASIA, AND NONPROLIFERATION

June 14, 2021

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Cardona:

I am writing to express concern with a series of recent changes that reflect a fundamental shift in the mission and control structure of St. Andrews University in Laurinburg, North Carolina, and to raise questions which, I believe, must be addressed before the Department of Education (ED) can, in good faith, renew the federal aid eligibility certification of St. Andrews's parent institution, Webber International University, which is currently scheduled for review of provisional certification which expires June 30, 2021.

St. Andrews Presbyterian College was established as a North Carolina nonprofit in 1961 and merged with Florida-based nonprofit Webber International University in 2011, after review and approval by ED. In the last few years, St. Andrews's nonprofit legacy has been threatened as for-profit college operator Arthur Keiser and his associates exert control over St. Andrews through what one expert characterized as a "hostile takeover."[i] The following changes are part of a broader shift emphasizing profits and growth at the expense of students' education and that require review under the structural change policies of ED and the regional accreditor, Southern Association of Colleges and Schools Commission on Colleges (SACSCOC):

- Board Membership - Constituents and news outlets have highlighted "ample evidence" that Keiser "has obtained dominant influence" over St. Andrews University.[ii] In 2018 "most members of those schools' joint board of trustees were replaced, largely, perhaps entirely, by people connected to Arthur Keiser" at the same time Keiser affiliates contributed over $4 Million to St. Andrews.[iii] Keiser himself was also a board member, at least for a time.[iv] While Board turnover is common, members are typically independent; a coordinated change that grants decision-making power to the Keiser network merits closer review as a change of control.

- Contributions and Conflicts - When St. Andrews was overleveraged and thus financially vulnerable, millions in bail-out funding flowed into St. Andrews from Everglades College, Inc., a Keiser-controlled entity. At the same time, Everglades received a consulting contract, allowing Keiser insiders to extract revenue from St. Andrews.[v] Webber CEO Keith Wade describes this arrangement as a "consulting agreement,"[vi] however, regulators should review whether this arrangement grants improper benefits or shifts control over key functions to Keiser and Everglades insiders.

- Change in Campus Leadership - Keiser-affiliate Ellen Bernhardt was installed as interim president and given control over St. Andrews despite her lack of experience or academic credentials in nonprofit education.[vii] While spearheading a growth campaign at St. Andrews, Bernhardt was being evaluated as a doctoral candidate in Keiser University's business administration program (with a concentration on marketing).[viii] Moreover, Bernhardt was reportedly a senior administrator at Keiser University while holding an interim appointment at St. Andrews.[ix] Keiser's control over her academic success and employment at Keiser University present conflicts of interest that are at odds with St. Andrews's educational mission and nonprofit integrity.

- Enrollment Growth - St. Andrews has increased student enrollment by **92 percent** in recent years, according to Webber president Keith Wade.[x] Prior to combining with Webber, St. Andrews was a small liberal arts institution with a single campus in Laurinburg, about 440 students, and 14 undergraduate programs in arts, sciences and business.[xi] Wade previously noted that St. Andrews would be financially sound if enrollment increased by 10 to 15 percent (40 to 50 students).[xii] The recent pattern of aggressive growth was not about stabilizing St. Andrews; it fundamentally transformed St. Andrews.

- Program growth - In 2019 and 2020, St. Andrews introduced twelve new programs, including career training programs that are frequently offered by for-profit institutions with poor student outcomes. Moreover, a shift to nonresidential adult and online learners would be a significant institutional change and requires close review to ensure that these students would be appropriately served by an institution that has very rapidly expanded from its operation as a small, residential liberal arts college.

- New Campuses - Together, St. Andrews and Webber shifted from operating on two residential campuses to operating eight campuses, six of which are nonresidential.[xiii] St. Andrews has opened "three new Adult Learning campuses in Charlotte, Charleston, and Columbia," and expanded enrollment of students in an online-only program. Several new campuses share the same address as campuses of Southeastern College, a for-profit college owned and operated by the Keiser family and, until 2012, operated under the name "Keiser Career College." [xiv]

Colleges (and their students) are not assets that can be bought, sold, or transformed by market principles alone; public investment in federal aid and concern for student welfare requires a higher standard. As you know, the Higher Education Act requires a review whenever an institution undergoes a change of control; regulations clarify that control can mean:

> "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, **or otherwise**."[xv]

Additionally, as an accreditor, SACSCOC's policy on substantive change review is even broader, requiring review for new campus locations and "the addition of courses or programs that represent a significant departure, either in content or method of delivery."[xvi] Both ED and SACSCOC must review third-party contracts which may improperly divert resources from a nonprofit's educational mission, benefit insiders, or undermine institutional autonomy.

Moreover, while Webber is subject to provisional certification, ED holds even greater monitoring responsibilities: provisional participation agreements typically require schools to seek permission from ED before expanding with new programs. <u>**Webber and St. Andrews should remain on provisional status**</u> until ED's has fully reviewed their programs and contracts for a possible covert change in ownership. Furthermore, in light of the recent Government Accountability Office (GAO) report[xvii] on the risks associated with nonprofits that are manipulated by for-profit insiders for private gain, ED should <u>**halt decisions on the renewal applications of Webber International University (including St. Andrews) and Southeastern College**</u> until the Department has strengthened its processes for identifying and reviewing structural changes.[xviii] These steps must be taken to protect students and taxpayers and ensure integrity of the conversion process.

I request a phone call or virtual meeting to learn more about the Department's efforts to date to review the changes that have transformed St. Andrews into an unrecognizable institution in the eyes of my constituents. I also write to request further clarification on the following topics:

- First, in light of the GAO's recent findings, what steps have been taken to ensure that St. Andrews continues to operate as a *bona fide* nonprofit as defined by ED regulations?[xix] Or, if St. Andrews no longer meets that definition, what steps are taken to ensure that students are protected and not misled?

- Second, what steps has ED taken to flag structural changes that require review in instances where the institution fails to self-identify and apply for review? Considering the GAO's findings that some conversions use preexisting nonprofits to bypass IRS scrutiny, it is important for ED oversight to extend beyond institutions' voluntary compliance with review procedures.

A decade ago, Keiser took control of Everglades as a fledgling nonprofit and repurposed it into a vehicle to shield his other for-profit colleges from regulations while using them for private gain.[xx] Now, Keiser is poised to use Everglades's resources to repeat the trick with St. Andrews. At this critical juncture, I urge you to scrutinize the structural changes at St. Andrews to ensure that the problematic history of Keiser-affiliated conversions does not repeat itself.

Sincerely,

Kathy Manning
Member of Congress

CC: Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)
U.S. Department of Education, Office of Inspector General

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[i] U.S. House of Representatives Committee on Education & Labor Hearing, "For-Profit College Conversions: Examining Ways to Improve Accountability and Prevent Fraud," Testimony of Yan Cao, The Century Foundation, available at: https://edlabor.house.gov/hearings/for-profit-college-conversions-examining-ways-to-improve-accountability-and-prevent-fraud.

[ii] David Halperin, "Is Arthur Keiser in Charge at St. Andrews University?" Republic Report, Feb. 19, 2021 publication, available at: https://www.republicreport.org/2021/is-arthur-keiser-in-charge-at-st-andrews-university/. Reprinted in The Laurinburg Exchange, March 2, 2021, available at: https://www.laurinburgexchange.com/news/46827/is-arthur-keiser-in-charge-at-st-andrews-university.

[iii] Id.

[iv] David Halperin, "Is Arthur Keiser in Charge at St. Andrews University?" May 7, 2021 update.

[v] W. Curt Vincent, "Webber president talks about blog aimed at St. Andrews," The Laurinburg Exchange, available at: https://www.laurinburgexchange.com/news/47040/webber-president-talks-about-blog-aimed-at-st-andrews

[vi] Id.

[vii] Bernhardt's dissertation indicates that she has no prior experience in nonprofit education, having spent "40 years in management and marketing." Bernhardt Dissertation, Keiser University, April 2018, available at: https://www.proquest.com/dissertations-theses/adult-learners-evaluating-investment-college/docview/2066820603/se-2?accountid=201395.

[viii] Id. See also, St. Andrews, Press Release: "DR. ELLEN BERNHARDT APPOINTED INTERIM CAMPUS PRESIDENT," June 11, 2020, available at: https://www.sa.edu/dr-ellen-bernhardt-named-interim-president/; LinkedIn Account of Ellen Bernhardt, accessed May 4, 2021.

[ix] Bernhardt was listed as a top official at Keiser as recently as February 2021 despite having been appointed as interim president of St. Andrews in 2019. See Halperin, supra note 2.

[x] Vincent, supra note 5.

[xi] Cary McMullen, "Webber International University Plans to Take Over N.C. School," The Laurinburg Ledger, Feb 2, 2011, available at: https://www.theledger.com/article/LK/20110202/News/608072469/LL.

[xii] Id.

[xiii] https://www.sa.edu/dr-ellen-bernhardt-named-interim-president/.

[xiv] Southeastern College, "About Us," available at: https://www.sec.edu/about/. See also, Halperin, supra note 2.

[xv] https://www.law.cornell.edu/cfr/text/34/600.31 600.31(b).

[xvi] https://www.sacscoc.org/pdf/081705/SubstantiveChange.pdf

[xvii] Government Accountability Office (GAO), "Higher Education: IRS and Education Could Better Address Risks Associated with Some For-Profit College Conversions," Jan. 2021, available at: https://www.gao.gov/products/gao-21-89.

[xviii] ED's Postsecondary Education Participants System (PEPS) website identifies June 30, 2021 expiration dates for the program participation agreement (PPA) of Keiser-owned Southeastern College (formerly Keiser Career Institute) and the provisional PPA of Webber International University, including St. Andrews which ED characterizes as a "branch" of Webster. PEPS data available at: https://www2.ed.gov/offices/OSFAP/PEPS/index.html.

[xix] 34 CFR § 600.2(1)(i)-(iii); 20 U.S.C. § 1003(13) (defining "nonprofit" in part as an institution "no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.").

[xx] Robert Shireman, "*The Covert For-Profit,"* The Century Foundation, Sept. *2015, available at: https://tcf.org/content/report/covert-for-profit/*.