

Curtis, Christopher

From: Curtis, Christopher
Sent: Friday, January 17, 2020 2:02 PM
To: David Williamson
Subject: RE: Public Communication re: Marlboro College

Dear Mr. Williamson,

Thanks for your letter. Appreciate you reaching out and expressing your concerns. Will take your comments under advisement.

Best, Christopher

Christopher J. Curtis
Chief, Public Protection Division
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609
802-828-5586

PRIVILEGED & CONFIDENTIAL COMMUNICATION: This communication may contain information that is privileged, confidential, and exempt from disclosure under applicable law. DO NOT read, copy or disseminate this communication unless you are the intended addressee. If you are not the intended recipient (or have received this E-mail in error) please notify the sender immediately and destroy this E-mail. Please consider the environment before printing this e-mail.

From: David Williamson [REDACTED]
Sent: Thursday, January 16, 2020 10:50 AM
To: Curtis, Christopher <Christopher.Curtis@vermont.gov>
Subject: Public Communication re: Marlboro College

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear Mr. Curtis,

Recently the public emails to the AGs office have been shared between various members of the Marlboro community. In one particular email, dated the 5th of November, from Kevin Quigley to you, he states that, "In exchange for the transfer of our assets (endowment and campus) the alliance partner will rename an institute and take all of our faculty and staff." That statement is patently false, and Keven either knew, or should have known, at the time that he was making a false claim to you. The real deal, as has been publicly announced by Kevin and the Board of Trustees is that in exchange for the endowment, campus, and other assets of the College, Emerson will employ all tenured and tenure track professors, and there is no deal to employ any staff members. Emerson will also not be employing any professors who were not tenure track or tenured, this includes adjuncts, visiting faculty, fellows, and others who were employed full time but not on a tenure track. From my best assessment this represents about 20 employees, assuming every single eligible faculty takes a position at Emerson, which is unlikely.

It has also been announced that Emerson will take all students who wish to enroll, but students are reporting that it will cost about \$15,000/year more to attend Emerson.

I was surprised to see Kevin's email to you, which characterizes the situation as much more beneficial to the employees of Marlboro College than it being publicly reported by Kevin and others.

In short, the proposal is to move more than \$40MM in valuation to Boston, in exchange for employing ~20 people, who would become Massachusetts employees, and accepting a number of students who may or may not be able to afford to attend Emerson.

I have attached a picture of the relevant email.

Best,

David

--

David Williamson, DBA

Curtis, Christopher

From: Matthews, Deborah
Sent: Friday, January 17, 2020 1:39 PM
To: Clark, Charity; Diamond, Joshua; Curtis, Christopher
Cc: Jandl, Lauren
Subject: PRESS EMAIL - Jacob Seitz - Emerson College The Berkeley Beacon - (614) 949-4704 - jacob_seitz@emerson.edu

Importance: High

RE: Marlboro College's endowment
DEADLINE: Not given
REC'D: 1-17-2020 at 1:20pm

Deb Matthews

Administrative Assistant
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail \ deborah.matthews@vermont.gov

From: Jacob Seitz <jacob_seitz@emerson.edu>
Sent: Friday, January 17, 2020 1:20 PM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Endowment Information

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Hello,

I am a reporter for Emerson College's student-run newspaper, The Berkeley Beacon.

I'm looking for information regarding Marlboro College's endowment, specifically how they would go about un-restricting some of the restricted donations in their endowment. I know the Vermont Attorney General's office would be involved in that process, hence my email.

Along with this, I would love to have any information available to me as far as if Marlboro has started that process yet or not.

Thanks,

--
Jacob Seitz (he/him/his)
Assistant Express Editor/Senior Marlboro Reporter, *Berkeley Beacon*
Emerson College '21
(614) 949-4704

Christopher,

I called your office to discuss this but learned that you are away at a conference. Thus, this email.

Tomorrow, we will announce that we have taken the first step towards an alliance with an institution that we are truly excited about. While this alliance meets our objectives around identity, pedagogy and support for our students and faculty, it will involve moving from Potash Hill.

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In exchange for the transfer of our assets (endowment and campus), the alliance partner will rename an Institute and take all of our faculty and staff. As we discussed before, we will work closely with your office on the possible transfer of these assets.

Do you have some time later today or tomorrow that we might discuss this? If that doesn't work for you, I will send you a copy of the announcement and will be glad to talk about our plans at your convenience.

Warm regards,

Kevin Q.



Kevin F. F. Quigley
President

Curtis, Christopher

From: Theodore Kramer <tck@kvpclaw.com>
Sent: Wednesday, February 5, 2020 11:26 AM
To: Gallagher, Kate
Cc: Curtis, Christopher
Subject: RE: Marlboro College

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Thank you.

I will reach out to him.

From: Gallagher, Kate [mailto:Kate.Gallagher@vermont.gov]
Sent: Wednesday, February 5, 2020 10:05 AM
To: Theodore Kramer <tck@kvpclaw.com>
Cc: Theodore Kramer <tck@kvpclaw.com>; Curtis, Christopher <Christopher.Curtis@vermont.gov>
Subject: RE: Marlboro College

Good morning Ted, Chris Curtis in my office has some information about the sale, although I don't think the AGO is "handling" it as a legal matter. I have spoken with Chris and he is happy to speak with you if you'd like. His number is 828-5586. Have a great day, KTG

From: Theodore Kramer <tck@kvpclaw.com>
Sent: Tuesday, February 4, 2020 3:19 PM
To: Gallagher, Kate <Kate.Gallagher@vermont.gov>
Cc: Theodore Kramer <tck@kvpclaw.com>
Subject: Marlboro College

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Kate,

Is there a point person in your office handling the Marlboro College sale to Emerson College?
I represent a student who is considering bringing a claim under the Consumer Protection Act.

Theodore C. Kramer, Esq.
Kramer Law, P.C.
42 Park Place
Brattleboro, VT 05301
Phone: (802) 257-2221
Fax: (802) 257-2373
Cell: (802) 380-2335



Visit our [Website](#)

Get [Directions](#)

Like us on [Facebook](#)

Curtis, Christopher

From: AGO - Helpdesk
Sent: Monday, February 10, 2020 1:17 PM
To: AGO - Info
Subject: Contact Form submitted on Office of the Vermont Attorney General

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

| | |
|--|--|
| Name | Laura |
| Last | Hlnerfeld |
| Email | [REDACTED] |
| Phone Number | [REDACTED] |
| Mailing Address (required for a response) | [REDACTED] Sonoma, California 95476 |
| Subject | Marlboro College |

Message I am writing as a Marlboro College alumna to urge you to intervene in the closure of Marlboro College, and the transfer of its assets out of state to Emerson College. I believe the Board of Trustees has failed in its duties, and its leadership is no longer capable of representing the College's interests.

For 75 years Marlboro College has enriched southeastern Vermont with jobs, cultural opportunities, and human capital. Its students stay in the area and contribute to the community for years. The town of Marlboro and its elementary school is dependent on a functioning college. Vermont's educational landscape is changing quickly. I believe Marlboro must remain a part of that landscape for future generations of students.

Please step in to save this valuable institution.

With gratitude,

Laura Hinerfeld BA 1993

Curtis, Christopher

From: AGO - Helpdesk
Sent: Saturday, February 8, 2020 12:15 PM
To: AGO - Info
Subject: Contact Form submitted on Office of the Vermont Attorney General

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Name Douglas

Last Franklin

Email [REDACTED]

Phone Number [REDACTED]

Mailing Address [REDACTED]

(required for a response) South Wellfleet, Massachusetts 02663

Subject Proposed Marlboro College dissolution

Message

Douglas E. Franklin

[REDACTED]
South Wellfleet, MA. 02663

February 7, 2020

T.J. Donovan
Attorney General
State of Vermont
109 State Street
Montpelier, VT. 05609

Re: Proposed merger and dissolution of Marlboro College

Dear Attorney General,

I wish to express several concerns about the proposed merger of Marlboro College with Emerson College, Boston, MA,

Our son graduated from Marlboro College 17 years ago. While he had been a diffident high school student, he blossomed at Marlboro. He went on to earn a Masters in Astronomy at the University of Massachusetts, and a PhD in Atmospheric Physics at Dalhousie University, Halifax, Nova Scotia. He is currently employed at a large research university in the Boston area. In many ways, he represents a Marlboro success story. There are many others, including graduates who have settled in Vermont, found jobs, created new businesses, and established families.

We didn't know much about Marlboro when our son indicated it was his first choice for a college. My wife and I both attended large, urban based colleges. We became believers in the Marlboro philosophy of education. Our conclusion was, pound for pound, Marlboro's educational approach produced graduates that could "punch well beyond their weight". The faculty and student body were easily equal in quality to our university experience.

So, I was disappointed when the Marlboro board of trustees announced the impending merger with the University of Bridgeport, then decided it wasn't going to work and everyone should think and discuss long range options, then quickly revoked that strategy and accepted a merger offer from Emerson College.

This seemed like highly unusual behavior. The open, participative governance structure of Marlboro for over 70 years had been replaced by a secretive, top-down, "our way or the highway", erratic, expedited decision-making process. I have read all the alumni and parent publications and communications for 20 years and nothing earlier had indicated such dire straights or the need for such a reversal of process.

Accordingly, I wish to share some thoughts about the current status and some possible future steps:

Overall, it's an odd situation. Marlboro, like many other small alternative colleges, has faced financial struggles over the years and has met the challenge and survived. It is not bankrupt; it has assets of around \$30M. It has an active group of alumni that oppose the merger and want to help maintain the college's independence. This time, it's the board of trustees and leadership which has seemingly lost faith in the mission of the college.

Maybe they are tired, or worn out. I appreciate how difficult it is, day by day, to ensure payrolls are met, vendors are paid, students have teachers, heat and dining services. However, the leadership team also adopted marketing plans that failed to appreciate/accentuate the college's special strengths and niche, and which failed to provide a sufficient number of entering students. The board of trustees

adopted business practices (large discounts to too many students) that were not sustainable. Rather than reach out to alumni to help recruitment, they doubled-down in secrecy, which allowed the continuation of this unsustainable low recruitment and high discount policy long after prudent leadership would have warranted; doing the same thing over again and expecting a different result.

There has been a lot of confusion about how the College got to this stage, what approaches were considered, when and why rejected, and how the proposed merger will affect the various stakeholders. Part of that confusion is due to the secrecy adopted by the leadership team (trustees entered into several non-disclosure agreements) and the failure to include important constituencies such as alumni, parents, the greater Marlboro College community, and the town of Marlboro, VT. Leadership waited until the brink, proposing only one solution (merger). The roll-out was so ill conceived (or implemented, or intentional?) that it divided the community and constituents of the college (students, tenured faculty, nontenured faculty, staff members, alumni) into who would enjoy favored financial support and who would be left high and dry.

As far as I'm concerned, it has been a case study of "How Not to close a college".

I have two public policy concerns and a suggestion going forward.

1. I think there is a serious issue of public policy for the state of Vermont if nonprofit corporations can "gift" their assets to foreign nonprofit corporations without some public oversight. I can foresee larger foreign nonprofits "asset stripping" community-based charitable organizations in small cities and towns of New England (community based hospitals, health and social service facilities, education, or even small churches), closing facilities, causing loss of services, jobs and removing locally raised endowments. Perhaps this issue of small community survival is one for a legislative study committee.

2. I am also concerned that words like "merger", together with the use of tools like non-disclosure agreements can be used to hide policies and actions that inure to the reward and benefit of particular individuals in an excessive amount. Certainly, in the Commonwealth of Massachusetts we have had several examples where college leaders have been rewarded excessive salary packages by compliant boards of trustees who share contracts with the institutions they serve. When decision-making has not been open, collaborative and transparent, one becomes suspicious of golden parachutes, consulting contracts, deferred compensation arrangements, retirement packages, grants of tenure, promises of future appointments, etc.

3. Before the Attorney General is asked to sort through this mess, I suggest the following:

- Appoint a Master with the authority of your office to determine the current financial status of the College; the amount of endowment, restricted and unrestricted; collect and review all active and proposed agreements, contracts, memorandums of understanding relative to the incorporation of

Marlboro into Emerson as to each type of constituency; determine any restrictions on the use of bequests, gifts, federal or state funds, or loans to the college; determine whether the proposed disposition of college assets abide by these restrictions; ensure that all Vermont vendors are compensated in full.

-In the course of this review, the Master should determine whether there has been any promise of future compensation in any manner to a trustee or College officer as a result of the proposed merger; whether satisfactory reimbursements have been proposed for public costs to the State of Vermont as a result of the dissolution (unemployment compensation for staff; increased public health care costs of employees who lose health insurance coverage; increased fire and security costs for town of Marlboro due to empty campus; restitution of local property tax exemptions and other charges not previously collected by town of Marlboro due to tax exempt status.

-In the course of this review, the Master should have access to the assistance of any state agency and the courts relative to the information gathering process. All information collected by the Master should be considered Vermont public records and available for review by the public (including any non disclosure agreements—the trustees have already ruined the future of the college—how much more damage could be done by disclosure?)

-The Master should consider what sums of money should be set aside in an account subject to the jurisdiction of the courts of the state of Vermont to ensure that all agreements, compensation, and reimbursements have been performed by the succeeding institution. The Master should require that both entities (Marlboro College and Emerson College) and parties (corporate officers and members of the board of trustees of each institution) shall agree to submit to the personal jurisdiction of the courts of Vermont for seven years or until such time that all agreements and assurances to act have been completed to the satisfaction of the Attorney General.

-The Master shall schedule such public hearings and meetings as he feels necessary. Meetings shall be held in or near Marlboro, VT. Any interim and final reports should allow the public to comment in writing for thirty days thereafter. All costs will be charged to Marlboro College as a cost of dissolving the College. (If leadership is so negligent as to drive a college into the ground, the operation can be charged with the cost of review by a competent government officer representing the citizens of Vermont.)

-A final report will be prepared, with public comments, and forwarded to the Attorney General who would make such further and final decisions as he believes may be warranted. No transfer of funds outside of Vermont should be made until the Attorney General has approved the final report.

In conclusion, I think the proposed merger with Emerson, dissolution of Marlboro College, gift of the assets to Emerson College and abandonment of the Marlboro campus is an unwise reaction to a series

of erroneous leadership business judgments—a self-created disaster.. If this were a private sector organization, there would be a failed product, closure of the company, or at least, a change of directors and corporate officers. In the non-profit area, however, it's not so clear what happens when the evidence indicates that leadership has failed, but they insist on staying, saying “Trust us; we know what we're doing”.

This leadership team and the board of trustees have lost the moral authority to lead this College anywhere.

I don't think we need to throw the baby out with the bathwater. I think the best solution for the larger Marlboro community and the citizens of the state of Vermont is to thank the board of trustees for their work, release them from their fiduciary responsibilities, and allow new trustees and leadership to reset the direction of Marlboro College (see Hampshire College, Amherst, MA as an example).

I hope members of the greater Marlboro community can accomplish this objective prior to your involvement, but if not, I hope these comments might be helpful to your staff.

Marlboro College's first students were returning GI's from World War II. The College has provided an educational opportunity to all manner of alternative students for over 70 years. It's reputation and recognition goes far beyond southern Vermont. Marlboro College deserves the opportunity to reinvent itself, as necessary, located in Marlboro, Vermont. To do that will require a change in leadership; the sooner the better.

Very truly yours,

Douglas E. Franklin



So. Wellfleet, MA 02663



cc: New England Commission of
Higher Education

Curtis, Christopher

From: Doug Franklin [REDACTED]
Sent: Friday, February 7, 2020 12:32 PM
To: AGO - Info
Subject: Marlboro College dissolution
Attachments: 020720 AG Marlboro letter.docx

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear Attorney General,

Please see attached a letter regarding the proposed dissolution of

Marlboro College.

Doug Franklin

Wellfleet, MA

Douglas E. Franklin

[REDACTED]
South Wellfleet, MA. 02663

February 7, 2020

T.J. Donovan
Attorney General
State of Vermont
109 State Street
Montpelier, VT. 05609

Re: Proposed merger and dissolution of Marlboro College

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Very truly yours,

Douglas E. Franklin

[REDACTED]
So. Wellfleet, MA 02663
[REDACTED]

cc: New England Commission of
Higher Education

Curtis, Christopher

From: Matthews, Deborah
Sent: Tuesday, January 28, 2020 10:06 AM
To: Curtis, Christopher
Subject: FW: Video in reference to Marlboro College's future

Deb Matthews

Administrative Assistant
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail \ deborah.matthews@vermont.gov

From: Matthews, Deborah
Sent: Wednesday, December 4, 2019 11:44 AM
To: Sudbay, William <william.sudbay@partner.vermont.gov>
Subject: FW: Video in reference to Marlboro College's future

Deb Matthews

Administrative Assistant
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail \ deborah.matthews@vermont.gov

From: Andy Reichsman [REDACTED]
Sent: Tuesday, December 3, 2019 9:38 PM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Video in reference to Marlboro College's future

To whom it may concern,

I have been asked by people in Marlboro who are concerned about the proposed arrangement between Marlboro College and Emerson College to share the video I took of the public meeting that took place in Marlboro on November 23rd, It was a community discussion about the arrangement, the process through which it came about and general dissatisfaction and concern about the future of the college and it's campus.

Here is a link to the video: <https://www.brattleborotv.org/community-forum/future-marlboro-college-112319>

Thank you,

Andy Reichsman

PS - At the website above, in the description area of the page, there is a log of the content of the video

Curtis, Christopher

From: Matthews, Deborah
Sent: Friday, January 17, 2020 1:39 PM
To: Clark, Charity; Diamond, Joshua; Curtis, Christopher
Cc: Jandl, Lauren
Subject: PRESS EMAIL - Jacob Seitz - Emerson College The Berkeley Beacon - (614) 949-4704 - jacob_seitz@emerson.edu

Importance: High

RE: Marlboro College's endowment
DEADLINE: Not given
REC'D: 1-17-2020 at 1:20pm

Deb Matthews

Administrative Assistant
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail \ deborah.matthews@vermont.gov

From: Jacob Seitz <jacob_seitz@emerson.edu>
Sent: Friday, January 17, 2020 1:20 PM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Endowment Information

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Hello,

I am a reporter for Emerson College's student-run newspaper, The Berkeley Beacon.

I'm looking for information regarding Marlboro College's endowment, specifically how they would go about un-restricting some of the restricted donations in their endowment. I know the Vermont Attorney General's office would be involved in that process, hence my email.

Along with this, I would love to have any information available to me as far as if Marlboro has started that process yet or not.

Thanks,

—
Jacob Seitz (he/him/his)
Assistant Express Editor/Senior Marlboro Reporter, *Berkeley Beacon*
Emerson College '21
(614) 949-4704

Curtis, Christopher

From: Matthews, Deborah
Sent: Friday, January 17, 2020 10:23 AM
To: Curtis, Christopher
Cc: Sudbay, William
Subject: FW: Marlboro College Failing Fiduciary Duty

Deb Matthews
Administrative Assistant
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail \ deborah.matthews@vermont.gov

-----Original Message-----

From: Dario Mazzola [REDACTED]
Sent: Friday, January 17, 2020 10:18 AM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Marlboro College Failing Fiduciary Duty

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear AG

I am writing to make you aware of the current failure in fiduciary duty by the board of trustees and leadership of Marlboro College in relation to its proposed merger with Emerson College.

Legally, as you know, a fiduciary relationship is one of trust or confidence between parties. A fiduciary, in our case the President and board members, have special responsibilities in connection with the administration, investment, monitoring, and distribution of property: the assets of Marlboro College. These assets include not just the buildings and grounds and endowment, but also intangibles, such as the reputation of the institution, the value of its alumni, the value of its degree, and the college's role in the community.

I and other alumni argue that Marlboro's fiduciaries have failed to adhere to accepted principles of good governance in particular when it comes to acting in accordance with the stated fiduciary duties of care, loyalty, and obedience.

A duty of care generally requires the President and board members to carry out their responsibilities in good-faith using a degree of diligence, transparency, and skill in the best interests of the institution. This involves clear and timely communication, sound judgment and necessarily requires a careful balancing of interests and priorities appropriate to the college's mission and strategic priorities.

A duty of loyalty requires the president and board members to act in a manner that is reasonably believed to be in the interests of the college rather than their own interests or the interests of another person or organization(s). The fiduciaries must not act out of self-interest or expedience.

Lastly, a duty of obedience requires Marlboro's President and board members to ensure that the college is operating in furtherance of its stated purposes, as set forth in its governing documents, and is operating in compliance with the law.

To finish my answer to your question, I have lost trust and don't believe Marlboro's fiduciaries have paid sufficient attention or looked after as best as possible the college's employee interests, student interests, physical assets, fiscal assets, the alumni and community interests. I question their loyalty to Marlboro College and have doubts on the operating procedures followed in this whole Emerson ordeal.

Regards,

Dario Mazzola, Class of 95 Marlboro College