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Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RAÚL R. LABRADOR in his official
capacity as Attorney General of the State of
Idaho

Plaintiff,

v.

IDAHO STATE BOARD OF EDUCATION,
an agency of the State of Idaho, in its
capacity as the Board of Regents of the
University of Idaho,

Defendant.

Case No. CV01-23-09996

**DECLARATION OF GREGORY K.
FINKELSTEIN**

GREGORY K. FINKELSTEIN, under penalty of perjury of the law of the State of Idaho, and pursuant to I.R.C.P. 2.7, Idaho Code § 9-1406, and the Idaho Rules of Electronic Filing and Service 9(a) declares as follows:

1. All things testified to herein are of my own personal knowledge, and I am competent to testify thereto.
2. I am a Managing Director at Tyton Partners.

3. Tyton Partners was engaged by the University of Phoenix (“UoP”) in connection with a potential sale transaction. Tyton Partners worked as financial advisors to UoP to assist with the potential sale transaction.

4. Among other things, Tyton Partners assisted UoP with identifying and vetting potential purchasers for UoP. Tyton Partners’ responsibilities included outreach to parties who might be interested in acquiring UoP; managing subsequent steps in the sale process, such as executing non-disclosure agreements and providing non-public and proprietary information for due diligence purposes; and assisting with the negotiation of key commercial terms.

5. Tyton Partners identified and evaluated potential purchasers who were both non-state/non-governmental entities as well as state/governmental entities.

6. One such entity was “Party A,” a highly reputable state university system.

7. In 2022, UoP was primarily negotiating with Party A.

8. However, in 2023, UoP (with the assistance of Tyton Partners) began establishing (or, in some cases, re-establishing) conversations with other potential buyers, including both state/governmental entities and non-state/non-governmental entities. One such state/governmental entity was the University of Idaho (“UI”).

9. On April 26, 2023, the likelihood of completing a transaction with Party A was diminished after it failed to garner support from the system’s Board of Trustees.

10. However, as it was explained to us by Party A, Party A was not necessarily obligated to obtain the approval of its Board of Trustees in order to acquire UoP.

11. Indeed, Party A remained involved in conversations with UoP and Tyton Partners about potentially acquiring UoP. After April 26, 2023, a representative of Party A

informed Tyton Partners that Party A still wanted to pursue a potential acquisition of UoP, though Party A would need additional time to either: (i) build internal support from their Trustees for the previously contemplated transaction; or (ii) bring in external partners to support the acquisition of UoP.

12. In that conversation, Tyton Partners encouraged Party A to continue to garner the support they needed for a potential transaction.

13. Accordingly, Party A's representatives remained active in the negotiation process. Among other things, representatives of Party A accessed the virtual data room Tyton Partners was maintaining on UoP's behalf multiple times following April 26, 2023, including in the second half of May 2023.

14. Additionally, on behalf of UoP, Tyton Partners remained in ongoing discussions with another potential buyer ("Party C").

15. Like Party A, Party C was affiliated with another highly reputable state university system that had expressed interest in acquiring UoP. Party C was an agent of a public agency with the authority to make decisions for or recommendations to a public agency.

16. While Party C could not meet the expedited timing commitments of UI and a non-state/non-governmental entity interested in acquiring UoP ("Party B"), Tyton Partners viewed Party C as a viable and credible alternative to UI and Party B.

17. Tyton Partners' discussions with Party C remained current during the month of May 2023 in an effort to maintain Party C's interest while Party C organized its efforts to acquire UoP.

18. UI was aware of Tyton Partner's ongoing discussions with other potential buyers, including state universities and private entities, and UI understood that those parties remained viable alternatives throughout UI's negotiations with UoP, including during the time periods at which UI updated its Board of Regents on the status of the negotiations.

19. Stated differently, UI both: (i) was in competition with other state/governmental purchasers throughout UI's negotiations with UoP; and (ii) subjectively understood that it was in competition with other state/governmental purchasers throughout UI's negotiations with UoP.

20. Following conversations with UI President C. Scott Green, it was my understanding that UI informed its Board of Regents that it was in competition with other state/governmental buyers throughout UI's negotiations with UoP and discussions with Tyton Partners.

I declare under penalty of perjury, pursuant to the law of the State of Idaho, that the foregoing is true and correct.

DATED this 13 day of August 2023.

Gregory K. Finkelstein

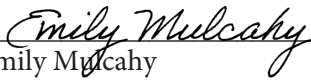
Gregory K. Finkelstein

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of August, 2023, a true and correct copy of the foregoing was served on the following by the manner indicated:

Timothy J. Longfield
timothy.longfield@ag.idaho.gov

Email:
iCourt E-File


Emily Mulcahy