



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,  
NY 12234

To: Higher Education Committee

From: John D'Agati

Subject: Elmira Business Institute: Consent to Transfer of Degree Powers upon a Change in Ownership

Date: August 29, 2011

Authorizations:

### **SUMMARY**

#### **Issue for Discussion**

Should the Board of Regents consent to the transfer of the degree powers of Elmira Business Institute to a new owner?

#### **Reason(s) for Consideration**

Required by State statute and State regulation.

#### **Proposed Handling**

This matter will come before the Higher Education Committee at its September 2011 meeting, where it will be voted on and action taken. It will then come before the full Board at its September 2011 meeting for final action.

#### **Background Information**

Quad Partners, the owner of two New York proprietary colleges, Pacific College of Oriental Medicine and Swedish Institute, seeks to purchase Elmira Business Institute, a proprietary two-year college with its main campus in Elmira, Chemung County, and a branch campus in Vestal, Broome County. Education Law provides that the purchase of a proprietary college may not include the college's authority to award degrees without the Regents consent. Section 3.58 of the Rules of the Board of Regents specifies the requirements for receiving consent.

A description of Elmira Business Institute, Quad Partners, and Quad Partners' plan to strengthen the institute is attached.

Quad Partners proposes to make Swedish Institute, Inc., the owner of Elmira Business Institute, which would continue to operate as a separate higher education institution. Since Quad Partners acquired Pacific and Swedish in 2008, the Department's experience has been positive. Therefore, the Department recommends that the Regents consent to the transfer of degree powers.

#### Recommendation

It is recommended that the Board of Regents consent to the transfer to Swedish Institute, Inc., Elmira Business Institute's authority to award the Associate in Occupational Studies (A.O.S.) degree to duly qualified students successfully completing registered programs.

Attachment

## Information in Support of Recommendation

### *Elmira Business Institute*

Elmira Business Institute (EBI), Elmira, Chemung County, is a proprietary college that received authority to confer the Associate in Occupational Studies (A.O.S.) degree from the Board of Regents in November 1996. In February 2003, the Regents authorized the Institute to establish a branch campus in Vestal, Broome County. At both campuses it offers associate degree programs in the discipline areas of Business and the Health Professions. EBI is accredited by the Accrediting Council for Independent Colleges and Schools (ACICS). Its medical assisting programs are accredited by the Commission on Accreditation of Allied Health Education Programs.

EBI awarded 140 A.O.S. degrees in 2006-07, 101 in 2007-08, and 87 in 2008-09. Across the three years, 52.7 percent of all degrees were in the Health Professions and 47.3 percent were in Business.

In the fall of 2010, EBI had a total enrollment of 552 students, of whom 283 (51.3 percent) were at the main campus and 269 (48.7 percent) were at the Vestal branch campus. Over the past five years, total enrollment grew by 61 students (12.4 percent). The table below shows EBI's enrollments, by campus, over that period.

<b>Elmira Business Institute, Enrollment, Fall 2006 – Fall 2010</b>					
Fall Enrollment	2006	2007	2008	2009	2010
<i>Institute-Wide (both campuses)</i>					
Full-time	354	297	308	375	429
Part-time	137	124	120	143	123
Total	491	421	428	518	552
Full-time First-time	102	133	127	154	160
Part-time First-time	42	52	45	66	20
Total First-time	144	185	172	220	180
<i>Main Campus</i>					
Full-time	184	160	181	198	205
Part-time	85	68	72	83	78
Total	219	228	253	281	283
Full-time First-time	59	78	69	90	86
Part-time First-time	35	32	29	39	13
Total First-time	94	110	98	129	99
<i>Vestal Campus</i>					
Full-time	170	137	127	177	224
Part-time	52	56	48	60	45
Total	222	193	175	237	269
Full-time First-time	43	55	58	64	74
Part-time First-time	7	20	16	27	7
Total First-time	50	75	74	91	81

Source: NYSED, Higher Education Data System, 2011.

EBI has reported associate degree graduation rates over three years that consistently exceeded the statewide average, as shown in the table below.

<b>Elmira Business Institute</b>					
<b>Three-Year Associate Degree Graduation Rate*, 2006-07 – 2010-11</b>					
	2006-07	2007-08	2008-09	2009-10	2010-11
Main Campus	27.1%	67.2%	67.0%	47.5%	34.5%
Vestal Campus	31.0%	87.7%	80.5%	55.8%	29.1%
Statewide Rate	23.5%	23.4%	22.9%	22.3%	NA**

\*Proportion of the full-time first-time students earning an associate degree within three years of the date of entry.

\*\* Because of incomplete returns, the statewide rate is Not Available as of the date of this report.

Source: NYSED, Higher Education Data System, 2011.

The Department's 2010 review of EBI's audited financial statements found that the college met the federal test of financial responsibility in every fiscal year ending 2000 through 2009 and therefore is considered financially healthy.

Last year, a staff member and a consultant visited both EBI campuses, met with faculty and staff, observed classes, and reviewed faculty and student files, minutes of meetings, and course materials. They found a number of matters of policy and practice needing change to meet expectations for registration of curricula in the Commissioner's Regulations, including:

- Thinness among academic and administrative staff in pertinent advanced study and professional experience in colleges and universities.
- Insufficient provision for a core of on-going, well qualified faculty to assure sustained program quality.
- Insufficient faculty involvement in comprehensive curricular design and evaluation, academic standard setting consistent with Commissioner's Regulations, and overall responsibility for sustained quality assurance.
- Faculty teaching loads well beyond those prevailing in degree-granting institutions and insufficient provision for faculty time for assessment and support of student learning, professional development, and conduct of academic governance responsibilities.
- Insufficient student learning and performance expectations, including development of general knowledge, writing, and other skills expected as a degree program outcome.
- Insufficient remedial, tutoring and support services for assurance of consistent student attainment of college-level performance.
- Insufficient configuration of office spaces for faculty work related to the full range of faculty responsibilities.
- Uneven documentation in student and faculty folders.

The findings from the visit were communicated to Quad Partners, to be addressed in the new owner's plan for operation, as well as the college's president.

## ***Quad Partners***

Quad Partners, the owner of Pacific College of Oriental Medicine, New York, and Swedish Institute, New York, has applied to purchase EBI. The Board of Regents consented in September 2008 to transfer of Pacific College of Oriental Medicine's degree powers to Quad Partners and in December 2008 to transfer of Swedish Institute's degree powers.

Quad Partners makes acquisitions through two Delaware limited partnerships, Quad Partners II LP and Quad Partners III-A LP. These two limited partnerships are controlled by their general partners, Quad Advisors II LP and Quad Advisors III LP. The general partners are Lincoln Frank, Andrew Kaplan, Thomas Kean, Daniel Neuwirth, Stephen Spahn, and Russell Dritz. The limited partners of the two limited partnerships are passive institutional and individual investors.

Quad Partners proposes that Swedish Institute, Inc. would acquire EBI, although EBI would continue to operate as a separate higher education institution. In turn, Swedish Institute, Inc., which is a New York corporation, is wholly owned by Swedish Holdings, LLC, a Delaware limited liability company. Through Quad Partners II LP and Quad Partners III-A LP, Quad owns Swedish Holdings, LLC.

In addition to Pacific College and Swedish Institute, Quad Partners owns a majority interest in Beckfield College (Florence, Kentucky and Cincinnati, Ohio), which offers certificate, associate degree, and baccalaureate degree programs in nursing, paralegal, business, allied health, computer networking, and criminal justice. It also owns a majority interest in Blue Cliff College, with eight campuses in Louisiana, Mississippi, and Arkansas offering diploma programs in allied health and massage therapy. It owns a majority interest in Star Career Academy in Syosset and Manhattan, licensed non-degree New York trade schools offering commercial cooking, baking, hotel management, and medical assisting programs, and in New Jersey and Pennsylvania.

Quad Partners holds non-control, minority interests in two non-degree institutions: Dorsey Business Schools, with four campuses in Michigan offering programs in allied health and business, and B&H Education, with 41 campuses in Arizona, California, Nevada, Oregon, and Utah offering training for the salon/spa industry, including cosmetology, hair design, esthetics, and manicuring.

Quad Partners' managing partner, Lincoln Frank, has indicated that it has never sold an acquired school, since its establishment in 1999.

## ***Regulatory Provisions***

The purchase of a proprietary college does not automatically include a transfer of degree-conferring powers. Pursuant to §224 of the Education Law, the consent of the Board of Regents is required before a proprietary college, operating under a new owner, can award degrees. Section 3.58 of the Regents Rules includes the standards, requirements, and procedures the Department shall use in determining whether to recommend to the Board that it consent to the transfer of such authority to a new owner.

Section 3.58(e)(6)(ii) of Regents Rules lists five standards by which to evaluate the prospective owner's capacity to operate the existing college. Below is a summary of the Department's findings in respect to each of these standards.

Standard (a): Evidence confirming the prospective owner's capacity to operate the institution in compliance with the Education Law, program registration standards set forth in Part 52 of this Title, other Rules of the Board of Regents and Regulations of the Commissioner of Education, other State statutes and regulations, and Federal statutes and regulations, relevant to the operation of degree-granting institutions.

Quad Partners was founded in 1999 exclusively to acquire, own and operate schools, colleges, and related education companies. It owns interests in six postsecondary school groups with 37 campuses across the country. Its team consists of a group of educators, school administrators and investors, including the former governor of New Jersey and president of Drew University.

Managing partner Lincoln Frank was the Chief Operating Officer of J.P. Morgan Capital Corporation and a board member/principal of its private equity fund, an investment banker with Goldman, Sachs & Co. and a lawyer with Skadden Arps. He holds a B.A. from Wesleyan University, a J.D. from the University of Pennsylvania, and an LL.M. from Cambridge University.

General partner Thomas Kean was President of Drew University, Madison, New Jersey, from 1990 to 2005. As Governor of New Jersey from 1982 to 1990, he was noted for numerous education reforms. He chaired the Education Commission of the States and National Governors' Association's Task Force on Teaching. He also was the Chairman of the 9/11 Commission. He holds a B.A. from Princeton University and an M.A. from Teachers College of Columbia University.

General partner Andrew Kaplan was a senior executive at Kaplan, Inc. Before joining Kaplan, he served as Director of the Educational Technology Group at Scholastic. He holds a B.A. from Brandeis University and an M.B.A. from New York University.

General partner Daniel Neuwirth previously worked at Donaldson, Lufkin & Jenrette in the Merchant and Investment Banking groups with a focus on education companies. Earlier, he spent three years at Goldman, Sachs & Co. in the Principal Investing and Investment Banking areas. He holds a B.A. from Williams College and an M.B.A. from Dartmouth College.

General partner Steven Spahn has been the Headmaster and owner of The Dwight School, a K-12 school in New York City, since 1967. He is the founder of The International School of London, an owner of John Catt Educational Ltd., a U.K. Publisher, and previous owner of several career schools. He holds a B.A. from Dartmouth College, attended Oxford University, and completed coursework for a Ph.D. at Columbia University.

Principal Russell Dritz previously worked as a media and telecommunications investment banker at Credit Suisse First Boston with a focus on the education, entertainment, and publishing sectors. He holds a B.S. in Economics from the University of Pennsylvania.

The application states, “Quad and Applicant are committed to responsible stewardship of Elmira. Quad is passionate about the value of education to our community and protecting our reputation as educators and school owners. In order to promote high quality outcomes for our students and companies, Quad operates its schools with a long-term view of value creation. As such, Quad has no intention of selling any of its schools for short-term gains.”

Standard (b): Evidence confirming that the prospective owner has sufficient financial resources to ensure satisfactory conduct of degree programs and achievement of the institution’s stated educational goals.

Quad Partners was established for the sole purpose of acquiring and supporting educational institutions, and has established a track record of stable and steady financial commitments in support of its degree and non-degree granting institutions. It is an investment firm with “Committed Capital” of \$72.8 million. It has an additional \$119.4 million available for future investments and expenses.

Standard (c): Evidence of the prospective owner’s experience operating an educational institution or other business or enterprise in an effective manner which demonstrates the prospective owner’s capacity to operate a degree-granting institution.

Quad Partners owns interest in a mix of degree and non-degree institutions with a focus on careers. Beckfield College is an occupational college in Kentucky and Ohio offering certificate, associate degree, and baccalaureate degree programs in nursing, allied health, computer networking, paralegal, business and criminal justice. Blue Cliff College is a career school with eight campuses in Louisiana, Mississippi, and Arkansas offering diploma programs in allied health and massage therapy. Star Career Academy, with locations in Syosset and Manhattan, New York as well as in New Jersey and Pennsylvania, offers non-degree programs in commercial cooking, baking, hotel management, and medical assisting. In addition to those four schools, in which Quad Partners has a majority interest, it has a minority interest in two schools: Dorsey Business Schools, a non-degree school with four campuses in Michigan offering programs in allied health and business, and B&H Education, a non-degree school with 41 campuses in Arizona, California, Nevada, Oregon, and Utah, offering training for the salon/spa industry, including cosmetology, hair design, esthetics and manicuring.

The Department conducted a peer review visit to Beckfield College in August 2008 to determine the effectiveness of the new owner since acquiring the College in 2006. The site visit included a thorough examination of records; accreditation, academic and financial reports; staff and student interviews; class audits; and a tour of the facilities. Consistent with Quad Partners claims that it encourages and implements targeted, yet gradual, growth strategies, the College experienced a modest increase in enrollment (5-10 percent) and cautiously expanded programs and facilities to meet future demands. Subsequent to acquiring the College in 2006, Quad Partners

introduced new associate degree programs in allied health and computer networking administration, and expanded facilities to accommodate didactic and clinical laboratory needs in the nursing and health-related programs. Faculty and staff were excited about the new facilities and equipment. All national accreditations were up to date, and student pass rates on the nursing NCLEX examinations increased from 69 percent in 2007 to 94 percent in 2008. Interviews with students, faculty, and administration yielded positive feedback regarding the College, its programs, and the transition to new ownership, with most commenting on the subtle nature of the ownership transition. The reviewers commented positively on the current direction of the College.

Standard (d): Evidence that postsecondary education institutions that the prospective owner operates in New York State or elsewhere, if any, are in compliance with Federal and state statutes and regulations and accreditation requirements relevant to the operation of such institutions.

The Bureau of Proprietary School Supervision reports that there are no problems with either the Syosset or the Manhattan locations of Star Career Academy. Inquiries made to other states resulted in no negative feedback regarding Quad Partners. The Department was informed that representatives of Quad Partners were cooperative and wanted to comply with state standards.

Beckfield College is licensed by the Kentucky Council on Postsecondary Education and the Indiana Commission on Proprietary Education and is accredited by ACICS. The Star Career Academy locations in Syosset and Manhattan are both licensed through the Bureau of Proprietary School Supervision and accredited by the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT). Blue Cliff College is licensed by the Louisiana Department of Education Proprietary School Commission and the Mississippi Commission on Proprietary School and College Registration, and is accredited by ACCSCT.

Beckfield College, the Star Career Academy locations, and Blue Cliff College campuses in Mississippi and Louisiana are approved by the U.S. Department of Education to participate in federal HEA Title IV student aid programs.

Standard (e): Evidence that the prospective owner has not engaged in fraudulent or deceptive practices.

The Department's 2008 review revealed no evidence of fraudulent or deceptive practices by Quad Partners or any of its related partnerships. Its experience since Quad Partners acquired Pacific College and Swedish Institute in 2008 has been positive.

### ***New Owner's Plan for Operation***

In April 2011, Quad Partners and EBI submitted a plan to address the deficiencies identified during the site visit. The following is a summary of their plan.



## I. Beginning prior to the transaction (2011 Quarters 1-2), EBI will:

- Appoint a vice-president of academic affairs (VPAA) with significant experience in higher education administration and familiarity with the Commissioner's Regulations and Regents accreditation standards, or their equivalent.
- Establish and begin recruiting for dean positions for the two major divisions, business and allied health, to be filled by individuals with the credentials and higher education experience needed to lead curriculum and faculty development, and implement new programs. The new VPAA will be involved in these appointments.
- Appoint a full-time librarian with M.L.S. credentials to carry out a significant upgrade of library holdings and assist with integrating library resources into the curriculum. The librarian will carry out further hires to ensure that students in all sessions at both campuses can access a qualified librarian. The new VPAA will be involved in this appointment as well.
- Encourage students to take advantage of a recently completed agreement with Binghamton University (within a mile of the Vestal campus) for access to their library collection and complete a similar agreement currently under discussion with Elmira College (within a mile of the Elmira campus).
- Begin conducting internal and external program reviews for each program, under the direction of the new VPAA, leading to written recommendations for program improvement. If possible, faculty members from the New York higher education community will be recruited for the external reviews.
- Begin modifying, under the direction of the new VPAA, two existing programs to provide the basis for elevating their academic quality:
  - *Medical Coding and Reimbursement Specialist (AOS)*: Upgrade to a Health Information Technology (HIT) degree program suitable for accreditation by the American Health Information Management Association (AHIMA).
  - *Accounting (AOS)*: Change to a Business Management degree program with a concentration in accounting and add one or more concentrations, such as small business management or sales/marketing, to diversify the business programs and faculty, provide a richer educational experience and give students a wider range of career opportunities.
- Task recently hired master's-level general education, communications and remedial studies specialist lead instructors (one at each campus) with reviewing courses in these areas and revising syllabi. They will also help establish criteria for placing students into remedial study, hire and train general education instructors, and implement writing clinics and tutorial programs at both campuses. Dedicated space has already been set aside for the writing and tutorial programs.
- Expand the credentialed full-time faculty by immediately adding:
  - Instructors with a minimum of a master's degree in biological science or an appropriate medical field to teach the foundational science courses within allied health programs.
  - Reducing, where possible, adjunct positions in favor of credentialed full-time instructors for the summer 2011 semester.
- Improve the orientation process and incorporate co-curricular activities that prepare freshman students for college study.
- Complete the configuration of recently acquired additional space at the Vestal campus for offices, advising and quiet study.

- Expand instructor and student use of newly installed wireless access at both locations.
- Carry out an upgrade and updating of school servers.

## **II. Post-transaction (2011, (Quarters 3-4) and 2012)**

- Apply to NYSED to have Swedish Institute programs approved for EBI (Massage Therapy, Surgical Technology, Advanced Personal Training).
- Increase the number of full-time faculty members in each disciplinary area and the percentage holding master's degrees in their area of instruction.
- Create department chair or lead instructor positions, as needed, for the different programs, under the supervision of the new VPAA and program deans.
- Reduce the teaching loads of full-time instructors and expand activities relating to curriculum development, advising, professional development and institutional governance.
- Establish annual contracts for full-time instructors and ensure continuing access to company benefits.
- Institute a faculty tuition reimbursement plan and expand financial support for professional development activities.
- Continue to expand faculty office space and faculty access to computing and telecommunications tools at both locations.
- Conduct a thorough review of syllabi, following the program reviews, and establish committees tasked with producing new syllabi and assessment tools that require a higher level of student intellectual achievement, including research and critical thinking skills.
- Determine the credit value of courses that include some content that is prerequisite to college-level work.
- Confirm existing articulation agreements and develop others.
- Review the remedial studies program to determine its effectiveness and adequacy for students entering with weak academic backgrounds.
- Add an information literacy course to the core general education curriculum.
- Develop the hard copy and electronic holdings of both libraries.
- Continue to expand quiet study space and library-related computing and telecommunications tools.
- Establish a college-wide Board of Trustees.
- Produce a five-year strategic plan.
- Conduct a review of college policies and procedures in all areas and update school publications accordingly.

If the Regents consent to the transfer of degree powers, the Department will work with Quad Partners and EBI as they implement the plan.