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Joshua Grubman, Esq.
Mount Ida College
777 Dedham Street
Newton, MA 02459

RE: Mount Ida College Asset Transfer

Dear Messrs. Lannon and Grubman:

On April 27, 2018 you provided this office (the "AGO") with written notice, pursuant to the provisions of G.L. c. 180, § 8A(c) ("Section 8A(c)"), that Mount Ida College ("MIC") intends to sell substantially all of its property and assets to the University of Massachusetts at Amherst ("UMass Amherst") (the "Transaction").¹ You have also informed us that MIC is in financial extremis and in the absence of closing the Transaction by May 16, 2018, MIC will be unable to meet its financial obligations to employees and creditors and will file for bankruptcy.

We are deeply disappointed by MIC's decision to close its doors without a school closing plan and without appropriate notice to students, faculty, staff, and regulators. Your treatment of your own students is particularly upsetting and extremely unfair to them. Over the past several weeks, in addition to reviewing the financial components of the Transaction, the AGO has worked intensely with the University of Massachusetts system ("UMass"), other colleges, and state regulators to attempt to mitigate the harms to current MIC students whose futures and substantial educational investments have been jeopardized by MIC's conduct.

As you know, Section 8A(c) requires a charity to provide written notice to the AGO not less than thirty (30) days before conveying all or substantially all of its assets if the conveyance will result in a material change in the nature of the activities the charity conducts. The AGO reviews transactions under Section 8A(c) for compliance with charities law.

¹ The University of Massachusetts Building Authority ("UMBA") is a party to the Transaction. The UMBA is a public entity that, among other responsibilities, owns and manages residence halls and student activity facilities for the UMass system.



Due to the exigent circumstances that MIC has presented, including its inability to meet payroll obligations and its plan to file for bankruptcy if the Transaction does not occur by May 16, the AGO has concluded that it has little choice but to waive the thirty-day written notice requirement under Section 8A(c) and complete its investigation of MIC in two stages.

The first stage addresses the value of the Transaction to MIC, and whether the consideration MIC will receive comports with charities law. After the completion of the Transaction we will further review this disorderly and harmful closure to consider whether or not MIC's senior administrators and its Board of Trustees (the "Board") violated their fiduciary duties in addressing MIC's financial condition and in carrying out its educational mission.

Thus, this letter analyzes the proposed Transaction, including the financial details and the commitments UMass has made to assist MIC students. For the reasons described below, the AGO concludes that the proposed Transaction does not require court approval.

I. Background

MIC is a private college in Newton, Massachusetts with over 1,500 students and a history dating back to 1899. In recent years, MIC has offered a course of general education as well as a number of specialized programs that culminate in either associate's or bachelor's degrees, including programs in Dental Hygiene, Veterinary Technology, Funeral Services, Interior Architecture & Design, and Fashion Design. Due to financial challenges and following unsuccessful merger discussions with Lasell College earlier this year, the Board recently reached an agreement with UMass Amherst, described more fully in the following section, for UMass Amherst to acquire substantially all of MIC's assets.

MIC and UMass Amherst reached an agreement in principle with regard to the proposed Transaction in early April 2018. MIC thereafter announced its intention to close at the end of the academic year. The timing of this announcement provided current students, admitted students, faculty, and staff with virtually no notice, and little time to make alternative arrangements for the forthcoming academic year. The announcement also occurred without a closing plan, which the Massachusetts Department of Higher Education ("DHE") requires closing institutions to submit to DHE "as far as possible in advance" of intentions to close. *See* 610 CMR 2.07(3)(f)(2).

MIC has informed us that, based on its calculations, without the Transaction it will be unable to meet its financial obligations to employees and creditors. If the proposed Transaction does not close by May 16, MIC reportedly plans to file for bankruptcy.

II. The Proposed Transaction

Under the terms of the proposed Transaction, MIC will transfer all of its real property, personal property, intellectual property assets, and relatively small restricted assets to UMass Amherst in exchange for UMass Amherst paying off (or arranging for the discharge of) all of MIC's scheduled liabilities, including providing funds to allow MIC to meet its obligations to its faculty and staff prior to concluding its operations. In addition, conditioned on the closing of the proposed Transaction, UMass Amherst and other UMass campuses are making certain commitments to MIC students. These commitments, which form an important part of our analysis, are detailed further below.

As a precondition of the sale of MIC's assets to UMass Amherst, one MIC creditor will forgive \$11.5 million (50% of the outstanding debt balance with that creditor) to help ensure that MIC's assets continue to be used for educational purposes. We understand from discussions with this creditor that the forgiveness of \$11.5 million will only take place as part of the proposed Transaction, and would not be offered if MIC files for bankruptcy.

As a result, the value to MIC of the Transaction combines both a \$75 million payment from UMass Amherst and the \$11.5 million debt forgiveness, amounting to \$86.5 million.

III. The Review Process

On April 5 and 6, MIC's and UMass's respective boards of trustees voted to proceed with the Transaction. On April 6, MIC publicly announced the proposed Transaction and concurrent closure. Since the time of their initial outreach, the AGO has been in regular contact with counsel for both MIC and UMass regarding the proposed Transaction, including numerous meetings and telephone conferences. AGO staff have had extensive communications with current MIC students, family members, staff, faculty, DHE, and a number of other colleges and universities to help ensure that MIC students are provided with as many options as possible under these deeply regrettable circumstances to complete their degrees on time and with the minimum of disruption and additional expense.

On April 27, MIC provided the Non-Profit Organizations/Public Charities Division of the AGO (the "Division") with written notice pursuant to requirements of Section 8A(c) and further notified the AGO that due to adjustments in impending liabilities, the Transaction would need to close on May 18, 2018; otherwise MIC would run out of money. That closing date was later revised to May 16, 2018.

The Division undertook expedited information gathering and investigative efforts regarding the proposed Transaction, including: (a) reviewing organizational documents, transaction documents, financial records, board meeting minutes and materials, reports and other documents provided in response to information requests from the AGO; (b) interviewing MIC's and UMass Amherst's valuation consultants and a major MIC creditor; and (c) consulting regularly with counsel for MIC and UMass Amherst.

IV. Compliance with Charities Law

As noted above, the Division is charged with review of the proposed Transaction for compliance with charities law. Customarily, that means considering such factors as whether the organization will receive fair value for its assets and whether the board exercised due care and avoided conflicts of interest in making its determinations. Due to the exigent circumstances MIC presented, this letter addresses solely whether the proposed Transaction will result in MIC receiving fair value for its charitable assets; this determination helps inform whether court approval would be required for the sale.

Review of deal documents, valuation analyses, and interviews with valuation consultants confirm that the \$86.5 million value to MIC of the Transaction amounts to fair value for the real and personal property that is not restricted. Additionally, although difficult to quantify, UMass's commitments to displaced MIC students are an important component of this proposed

Transaction. Without the closing, as discussed below, important options for MIC students, particularly those in certain specialty degree programs that MIC previously operated, will not be available.

V. Commitments to MIC Students

The AGO has worked with UMass, the UMass campuses, other higher education institutions, and DHE to secure the following commitments for MIC students, many of which are contingent on the closing of the proposed Transaction:

A. Specialty Degree Programs

Veterinary Technology. UMass Amherst will teach out MIC's Veterinary Technology Associate of Arts ("A.A.") and Bachelor of Science ("B.S.") programs on the MIC campus with seamless credit transfer pending approval from the Board of Higher Education ("BHE") and the American Veterinary Medical Association. As part of the teach out, UMass Amherst will provide technical and general education courses, housing, dining services, library, and academic support services on the MIC campus.

Dental Hygiene. To allow MIC dental hygiene students to continue their education with minimal disruption, UMass Amherst and Regis College ("Regis") have announced a plan for the lease of space and assets to Regis that UMass Amherst will acquire through the Transaction. We understand that this agreement will enable Regis to serve the needs of MIC's incoming, pre-dental, Associate of Science ("A.S.") and B.S. dental hygiene students, pending approvals. We appreciate the joint commitment of the schools to assist these students.

Funeral Services. UMass Amherst has agreed to convey free of charge to Cape Cod Community College (a) certain physical assets that UMass Amherst will acquire through the Transaction that are specifically needed for funeral services, (b) a specialized MIC library, and (c) an MIC historical archive. We understand that this conveyance will enable Cape Cod Community College to offer the A.S. program in funeral services starting with the Fall 2018 semester, pending BHE and accreditor approvals.

Interior Architecture & Design and Fashion Design. UMass Amherst has agreed to convey equipment specifically needed for each program to UMass Dartmouth, which has agreed to teach out these programs with seamless credit transfer, pending BHE and accreditor approvals.

B. Admissions

UMass Dartmouth has agreed to offer admission to all MIC students in good academic standing. All four UMass campuses have agreed to waive application and deposit fees for MIC students. UMass has committed to providing the AGO with biweekly reports on the number of MIC students admitted, with pending applications, and who have been referred to partnering community colleges through September 1, 2018.

In addition, UMass Amherst is developing and will maintain and update an informational webpage for MIC students to ensure that students have a central place to review detailed information about the policies of each UMass campus on credit transfer and residency

requirements; application and associated appeal processes; cost commitments, incentives, and financial aid application and associated appeal processes; and transfer credit and degree completion audits and associated appeal processes.

C. Credit Transfer

All four UMass campuses have expressed a good faith commitment to ensuring that as many MIC students as possible complete their degrees on time. Specifically, UMass Amherst, UMass Dartmouth, and UMass Lowell have agreed to waive all residency requirements for MIC students (including campus-wide and major-specific residency requirements). UMass Boston has agreed to waive major-specific requirements for MIC students, though it will continue to maintain a 30-credit residency requirement that applies to all students.

All four UMass campuses have also agreed to accept MIC's general education courses toward fulfilling the UMass general education requirements, and all four campuses will make every effort to interpret prior academic work in a way that preserves momentum, even when there are no exact course equivalents. Additionally, all four UMass campuses have committed to ensuring that MIC students have a clear understanding of how many credits will transfer and count toward degree requirements and whether anticipated graduation dates will be extended before requiring students to make final enrollment decisions or payments.

To that end, UMass has agreed to work with the AGO and MIC to create an anonymized set of unique student identifiers and report to the AGO each continuing MIC student's total number of credits, anticipated MIC degree conferral date, degree level sought, and anticipated Fall 2018 enrollment status (i.e., full- or part-time). Using the unique identifiers, UMass will provide the AGO with information showing the anticipated UMass degree conferral date for each admitted MIC student who plans to maintain a full-time enrollment status at UMass in the Fall 2018 semester and has provided the relevant UMass campus with all necessary information to analyze the transferability of his or her MIC credits.

Additionally, pending BHE and accreditor approvals, MIC's Board will make a designee available, post-Transaction, to continue to confer MIC degrees to MIC students who currently have 105 or more MIC credits and might otherwise be unable to complete a degree on time from another institution because of credit or residency requirements elsewhere. These students will be permitted to enroll at a new school to take the courses needed to complete their degrees according to MIC's requirements, and then transfer those credits back to MIC to obtain their degree from MIC. This option will be available to MIC students who obtain the remainder of their outstanding credits by the conclusion of the Spring 2019 semester. UMass Amherst has agreed to help advise MIC students about this "reverse transfer" option as part of its advising services, and will facilitate contacts at other UMass campuses to help MIC students find appropriate coursework to complete their MIC degrees.

D. Transfer Advising and Support Services

UMass Amherst has committed to providing academic advising, information, and outplacement assistance by phone and on the MIC campus for all MIC students throughout the summer, and until the end of 2018 if demand continues. Because MIC specialized in serving

students with disabilities, UMass will maintain access to someone with appropriate expertise and understanding of disability needs of MIC students to help MIC students and their families coordinate their transition planning, whether to UMass or another school.

In addition, UMass Amherst agrees to maintain MIC's email system through the end of 2018. UMass Amherst also agrees to maintain the critical parts of MIC's website for one year so that MIC students, families and advisors may continue to have access to important reference points in identifying transfer options and comparing program and course information.

Finally, each UMass campus will designate a single point of contact for the AGO to utilize in helping to resolve the individual issues and concerns of MIC students who contact the AGO.

E. Tuition & Financial Aid

All four UMass campuses have agreed to charge in-state tuition to all MIC students who are citizens or permanent U.S. residents and who matriculate by September 1, 2018; the UMass campuses will maintain this policy for six semesters within a five-year window provided students are enrolled full-time.

Also, UMass Lowell will provide a merit award of \$2,500 per year for in-state students who have a 3.0 GPA at admission and maintain a 3.0 GPA or higher in subsequent semesters. This merit award is renewable for up to three years (or six semesters) provided the student maintains a 3.0 GPA or higher and completes the degree within five years of the date of admission. In addition, UMass Lowell will provide students who live in UMass Lowell dormitories with \$1,000 per term as a housing scholarship.

All four UMass campuses have agreed that the financial aid amounts awarded to MIC students who matriculate by September 1, 2018 will not be adversely affected by late application or enrollment for the Fall 2018 semester.

Using the anonymized student identifiers described in Subsection C, for each MIC student, UMass and MIC have also agreed to respectively report to the AGO, on or before October 31, 2018, the actual or scheduled charge, on a net basis, for the Fall 2018 semester, including tuition, fee, room, and board charges, and the associated number of credits.²

F. Student Records & Degrees

UMass Amherst has agreed to become the "institution of record" for MIC's digitized transcripts, graduation lists and "college catalogues" going back 50 years. To the extent any of these records from the last 50 years are not digitized, MIC will digitize them and transfer them to UMass Amherst. UMass Amherst has also agreed to become the "institution of record" for digitized student conduct records and athletic eligibility records for the required preservation period, which is during the student's attendance at MIC and UMass.

² UMass will only report on MIC students who matriculate at a UMass campus by September 1, 2018.

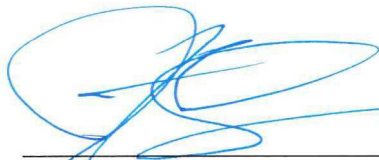
VI. Conclusion

MIC's abrupt closure has caused real harm to students and families, many of whom are still unsure of what to do. Your faculty and staff have lost their jobs. Based on the deeply regrettable circumstances here, the AGO expedited its review of the narrow issue of whether MIC will receive fair value for its assets through the Transaction and concludes that the proposed Transaction amounts to fair value for MIC's assets. We also understand that a closing before May 16, 2018 will avoid bankruptcy, ensure payment of outstanding wages to MIC employees, and secure many UMass commitments to MIC students. If the Transaction does not take place, the consequences to the MIC community will be more devastating than they would be if the Transaction occurs.

Based on our analysis, including all of the above factors, we conclude that court approval of the sale of MIC's real and personal property as contemplated in the proposed Transaction is not necessary. However, please contact us when MIC plans to transfer restricted assets pursuant to the proposed Transaction, as AGO assent and court approval will be required due to the restricted nature of the assets. Please let us know if we have misstated any of the above so that we can discuss the Transaction further.

We will continue to be in touch as, in the coming weeks, we will review the actions of the MIC Board and senior administrators in addressing MIC's financial condition to consider whether or not these parties violated their fiduciary obligations under charities law.

Sincerely,



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Assistant Attorney General
Deputy Chief, Non-Profit
Organizations/Public Charities Division
Health Care & Fair Competition Bureau



Arwen Thoman
Director, Student Loan Assistance Unit
Insurance & Financial Services Division
Public Protection & Advocacy Bureau

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