



The University of North Carolina

OFFICE OF THE PRESIDENT

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February 24, 2005

MEMORANDUM

TO: Committee on Educational Planning, Policies, and Programs

FROM: Molly Corbett Broad *MCB*

SUBJECT: Licensure of Proposed Charlotte School of Law in Charlotte, North Carolina

The Board of Governors of The University of North Carolina is charged under North Carolina General Statute Section 116-15 with responsibility for licensing nonpublic educational institutions to conduct post-secondary degree activity in North Carolina. On February 8, 1974, the Board adopted its rules and standards for licensing nonpublic educational institutions to confer degrees. Following several refinements of the rules and standards, the Board on October 9, 1998, approved the present revision in compliance with 1984 amendments to G.S. 116-15 and in recognition of the growing importance of distance learning in the delivery of instruction.

On January 16, 2004, Donald E. Lively, then Chancellor and Professor of Law of Florida Coastal Law School in Jacksonville, Florida, indicated that he would apply for licensure for a proposed law school in Charlotte, North Carolina. Florida Coastal School of Law (FCSL) in Jacksonville, Florida has operated since 1996, and it is accredited by the American Bar Association (ABA).

On April 14, 2004, Donald Lively forwarded a letter to the Office of the President indicating his intent to apply for a license to operate a postsecondary institution in the State of North Carolina. On April 28, 2004, the Office of the President received an application for licensure for the proposed Charlotte School of Law, Inc.

After reviewing the application for the proposed school of law, Dr. Howard-Vital identified and appointed a Team of Examiners to examine the application and to conduct a site visit at the model for the proposed law school —Florida Coastal School of Law—also owned by the same company. Specific team members were appointed because of their expertise in legal education. The purpose of the team's examination and site visit was to determine if Florida Coastal School of Law, as a model, complied with the licensure standards contained in The University of North Carolina Board of Governors' Rules and Standards: Licensing Nonpublic Institutions to Conduct Degree Activity in North Carolina (1998). Particular attention was paid to identifying team members who represented public and private institutions in North Carolina (as stated in the Rules and Standards).

Appalachian State University

East Carolina University

Elizabeth City State University

Fayetteville State University

North Carolina Agricultural and Technical State University

North Carolina Central University

North Carolina School of the Arts

North Carolina State University at Raleigh

University of North Carolina at Asheville

University of North Carolina at Chapel Hill

University of North Carolina at Charlotte

University of North Carolina at Greensboro

University of North Carolina at Pembroke

University of North Carolina at Wilmington

Western Carolina University

Winston-Salem State University

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The Team visited Florida Coastal School of Law on November 3-5, 2004 and submitted its preliminary report on February 14, 2005.

The Team recommended that Charlotte School of Law be licensed subject to completion of all recommendations of the Team of Examiners. A summary of the site visit, the review process, and the recommendation of the Office of the President is attached for your examination.

Subsequently, by letter dated February 17, 2005, Charlotte School of Law notified the Office of the President that it accepts all of the Team's recommendations, has implemented some already, and will implement the remainder, immediately. The Office of the President concurs with the Team's recommendations and accepts the commitment of Charlotte School of Law to implement them. Therefore, I recommend that a regular license be issued to the Institution to conduct the Juris Doctor (J.D.) degree program in Charlotte, North Carolina, subject to annual reports and review at any time. In addition to the interim reviews discussed in the Team's report, after two years have elapsed following licensure, Charlotte School of Law will be reviewed again, to judge whether the Institution continues to maintain standards for licensure.

Enclosure: Summary

March 2005

Summary of Activities for Licensure Application for the Charlotte School of Law

Corporate Background

InfiLaw, Inc. is the holding company that owns Charlotte School of Law as well as two other law schools, Florida Coastal School of Law and Phoenix International School of Law. Florida Coastal School of Law, founded in 1995 as a Florida licensed independent law school in Jacksonville, Florida, started its first class in 1996. It was provisionally accredited by the American Bar Association in 1999, and fully accredited in 2002.

In July of 2003, Sterling Capital Partners, L.P., of Chicago, formed the FCSL Acquisition Corp. and the FCSL Holding Company to purchase Florida Coastal School of Law. After review and approval by the ABA Committee on Accreditation, the Council of Legal Education, the Florida Commission on Independent Colleges and the U.S. Department of Education, the acquisition was completed in January, 2004.

On January 15, 2004, FCSL Holding Company changed its name to Legal Education Holding Company. Legal Education Holding Company changed its name to InfiLaw, Inc. on August 3, 2004. This holding company is located in Naples, Florida and facilitates the operation of the law school. Finally, FCSL Acquisition Corp. changed its name to Florida Coastal School of Law, Inc., which is located in Jacksonville, Florida, and operates and manages the law school.

The holding company formed the Phoenix International School of Law in the spring of 2004. Phoenix International School of Law was licensed by the State of Arizona in summer of 2004. It started its first class in January of 2005.

The holding company has applied for and is currently awaiting licensure for Charlotte School of Law and expects to start classes in the spring of 2006. CSL will have its own Board of Trustees, recruit its own Dean and faculty, and operate its academic program independently from the other InfiLaw schools. It will be able to fund student scholarships immediately. CSL will seek accreditation by the American Bar Association and anticipates being accredited by the time of the graduation of its first entering class of students.

Background on Charlotte School of Law

On January 13, 2004, Donald E. Lively, then Chancellor and Professor of Law of Florida Coastal Law School in Jacksonville, Florida, visited the Office of the President of The University of North Carolina to discuss the licensure process for opening a law school in Charlotte, North Carolina. On January 16, 2004, Chancellor Lively indicated that he would apply for licensure for a law school in Charlotte. On April 14, 2004, Donald Lively forwarded a letter to the Office of the President indicating his intent to apply for a

license to operate a postsecondary institution in the State of North Carolina. On April 28, 2004, the Office of the President received an application for licensure for Charlotte International School of Law, Inc. from Donald E. Lively, and Senior Vice President for New School Development, Legal Education Holding Corporation. Charlotte International School of Law, Inc. and Legal Holding Company are chartered in the State of Delaware. Copies of the Articles of Incorporation are in the Office of the President. At the request of the team of examiners, the name of Charlotte International school of Law was changed to Charlotte School of Law.

Florida Coastal School of Law (FCSL) in Jacksonville, Florida has operated since 1996, and it is accredited by the American Bar Association (ABA).

Team of Examiners

After reviewing the application for the proposed school of law, Dr. Howard-Vital identified and appointed a team of examiners to examine the application and to conduct a site visit at a functioning law school —Florida Coastal School of Law—also owned by Infilaw. Specific team members were appointed because of their expertise in legal education. The purpose of the team's examination and site visit was to determine if Florida Coastal School of Law, a model of the proposed Charlotte School of Law, complied with the licensure standards contained in The University of North Carolina Board of Governors' Rules and Standards: Licensing Nonpublic Institutions to Conduct Degree Activity in North Carolina (revised November 2004). Particular attention was paid to identifying team members who represented public and private institutions in North Carolina (as stated in the Rules and Standards).

The following team members were identified. A brief biographical sketch is included to demonstrate their areas of expertise in legal education at the end of the Summary.

James P. White, Chair, Team of Examiners

James P. White is currently Professor of Law at the School of Law at Indiana University in Indianapolis. He retired in 2000 after 26 years as Consultant on Legal Education with the American Bar Association but continues to serve as Consultant Emeritus. The Office of Legal Education is responsible for law school accreditation.

Richard Danner

Richard A. Danner is Senior Associate Dean for Information Services, and Archibald C. and Frances Fulk Ruffy Research Professor of Law at Duke University. He has expertise in law libraries, legal education, legal research and bibliography, and statutory interpretation.

Percy Luney, Jr.

Percy Luney, Jr. is the Dean and Professor of Florida A & M University, College of Law. Mr. Percy Luney began his career at North Carolina Central University School of Law where he served as the assistant dean and dean of the school. He brings expertise in administration of law schools.

Deborah Weissman

Ms. Weissman is Professor of Law and Director of Clinical Programs. She has had extensive experience in all phases of legal services advocacy, labor law and education-related civil rights law, family law, and issues related to social justice.

Vice President and Legal Counsel Leslie Winner and Associate Vice President Michelle Howard-Vital from the Office of the President of The University of North Carolina served as ex-officio members of the team of examiners.

The Site Visit

On September 30, 2004, prior to the visit of the team of examiners, Professor James White, chair of the team, and Dr. Howard-Vital met with representatives of Infilaw and the Florida Coastal School of Law in Jacksonville, Florida for a preliminary visit to get to know the Institution and the institutional representatives and set the stage for the site visit.

For the November 3-5 site visit of the team of examiners, Dr. Howard-Vital requested that the team: 1) review the Florida Coastal School of law as a model for the proposed Charlotte School of law, 2) examine the application for the proposed Charlotte School of Law to determine if the proposed curriculum and plans for hiring faculty were in compliance with licensure standards, and 3) write a report of their findings for the Board of Governors with a recommendation to grant, or not to grant, a license to the proposed Charlotte School of Law. Moreover, the team was instructed to employ the Rules and Standards for review of the application and site visit.

Because the licensure application stated that the goal of the proposed Charlotte School of Law is to “qualify its graduates for admission to the bar and to enable them to participate effectively in the legal profession,” the American Bar Association’s standards for accreditation were also consulted. While the Board of Governors’ Rules and Standards reference the Juris Doctor (J.D.) degree, certain sections in the American Bar Association’s standards for legal education were viewed as relevant to assessing the goals of the proposed Charlotte School of Law, since the ABA sections provide further specification of what is needed to qualify graduates for admission to the bar and to participate effectively in the legal profession. In particular the team was advised to supplement the BOG Rules and Standards with the ABA standards (Chapters) as follows: Standard 3, Program of Study supplemented with ABA Chapter 3, Program of Legal Education; Standard 4, Facilities and Library supplemented with ABA Chapter 7, General Requirements (physical facilities, technological capability, and the law library); and Standard 5, Faculty and Other Personnel Qualifications supplemented with ABA Chapter 4, The Faculty.

During the site visit, the team of examiners reviewed the curriculum, faculty credentials, library resources, budget data, educational facilities, enrollment data, the faculty handbook, audited financial statements, and other exhibits. During the visit, the Team

met with numerous individuals at Florida Coastal School of Law including Richard Federico, Principal, Sterling Capital Partners, and Rick Inatome, CEO of Infilaw.

A Preliminary Report to the President of The University of North Carolina Team of Examiners for the Licensure Visit for the proposed Charlotte School of Law Charlotte, North Carolina, was forwarded to the Office of the President by the chair of the team of examiners on February 14, 2005. The preliminary report was sent to representatives of the proposed Charlotte School of Law and to Ms. Liz Riley, counsel for the proposed law school, to review for errors of fact or omissions by Dr. Howard-Vital on February 14, 2005. Additionally, Dr. Howard-Vital requested that the Institutional representatives respond to the eight recommendations contained in the report, as soon as possible. Ms. Riley forwarded the proposed Institution's responses and corrections of facts to the Office of the President on February 16, 2005. The Team replied to the proposed Institution's responses on February 22, 2005 and indicated their overall satisfaction with the responses (with one or two changes in the final report).

In its Report, the team of examiners recommended that Charlotte School of Law be licensed to offer the J. D. degree in Charlotte, North Carolina contingent upon the following recommendations that are contained in the report.

In recommendation one, the team states that immediately after the proposed Charlotte School of Law opens a limited site visit should occur to review the Institution's facilities and the library. This site team should report on whether the building and the library are satisfactory. Infilaw responded that the proposed Charlotte School of Law would welcome a site visit by a team to review its facilities and library. Infilaw stated that it is further amenable to keeping the Office of the President apprised through reports, or other pertinent information, on the developing status of the facilities and library.

In the second recommendation, the team requires another team visit to the proposed Charlotte School of Law during its second semester of the first year of operation to determine that the School is in compliance with the Rules and Standards for Licensing Nonpublic Institutions to Conduct Post-Secondary Degree Activity in North Carolina. Infilaw responded that the proposed Charlotte School of Law would welcome also a site visit by appropriate representatives to confirm compliance with the Rules and Standards. Further, Infilaw stated that the Office of the President would be apprised of its operations through reports and other relevant materials.

In recommendation three, the team requests that the proposed Charlotte School of Law clarify the availability of student loans and identify sources for students to obtain loans, prior to the Institution's eligibility for federally guaranteed student loans. Infilaw replied that private alternative loans would be available to students, at competitive rates and terms, from sources such as Sallie Mae and National Education. Additionally, the proposed Charlotte School of Law plans to provide scholarships averaging \$5,000 per student.

In recommendation four, the team asks that the proposed Charlotte School of Law clarify the availability of health care services and the degree of responsibility of the Institution

for providing such services. Infilaw stated that the proposed Charlotte School of Law would not provide on-campus health care services. The availability of local health care services, resources and facilities will be publicized through the proposed Institution's catalogue. The Institution anticipates participating in a program that will facilitate student access to purchase health and life insurance from an outside vendor. This practice is being implemented at Florida Coastal School of Law.

The team also recommends, in recommendation five, that the Institution make available resumes of the dean, faculty and staff to the Board of Trustees of the Charlotte School of Law when appointments are complete. Infilaw responded that the proposed Charlotte School of Law would forward the aforementioned information to the Office of the President, at such time that appointments are made.

In recommendation six, the team requires that the proposed Charlotte School of Law demonstrate to the Office of the President of The University of North Carolina that it holds the appropriate tuition guaranty bond, as delineated in the Rules and Standards, prior to accepting tuition from students. Infilaw responded that it will provide evidence to the Office of the President that it holds the appropriate tuition guaranty bond, prior to the acceptance of tuition from students.

In the seventh recommendation, the team states that the proposed Charlotte School of Law should provide a copy of its By-Laws, or in the alternative, provide the Office of the President a copy of the By-Laws when they are adopted. Infilaw responded that it would provide copies of the By-Laws when they are adopted.

In the last recommendation, the team requires that the proposed Charlotte School of Law demonstrate that it has provision to dispose of permanent and other student records in accordance with the regulation of the Division of Archives and History of the State of North Carolina. Infilaw agreed to make arrangements with the North Carolina Division of Archives and History for the maintenance and/or disposition of student records, as required by law.

The Office of the President recommends that the Charlotte School of Law be licensed to offer the Juris Doctor (J.D.). The Office of the President also concurs with the team's recommendations concerning follow-up visits, as described in this summary.

Brief Biographical Sketches for Team of Examiners

Jim White, Chair, Team of Examiners

Professor White is currently on the faculty at Indiana University in Indianapolis. He holds an A.B., 1953; J.D., 1956, University of Iowa, LL.M., 1959, George Washington University.

James Patrick White retired in 2000 after 26 years as Consultant on Legal Education with the American Bar Association but continues to serve as Consultant Emeritus. The Office of Legal Education is responsible for law school accreditation, collection of statistics, and interfacing with other legal education entities. Mr. White continues to represent the ABA in a number of international legal education activities.

Before joining the Indiana University faculty in 1996, Mr. White taught at the University of North Dakota School Of Law and was a Carnegie Postdoctoral Fellow in University Administration at the University of Michigan. He also taught at George Washington University National Law Center and the University Of Iowa College Of Law. Jim White served as chair of the Advisory Committee for Fulbright Scholar Awards in Law. He served as Dean for Academic Planning and Development for IUPUI from 1973 to 1978. Mr. White is a life fellow of the American Bar Foundation, a life member of the Order of the Coif. He has received honorary degrees from the following Institutions during the past two decades: LL.D., 1984, University of the Pacific; LL.D., 1989, John Marshall Law School; LL.D., 1989, Widener University; JurD., 1991, Whittier School of Law; LL.D., 1993, Campbell University; LL.D., 1995, Southwestern University; LL.D., 1995, Quinnipiac College; LL.D., 1997, California Western; LL.D., 1999, Roger Williams University; LL.D., 2001 New England School of Law; LL.D., 2001, Seattle University.

The Association of American Law Schools, the Law School Admission Council, the ABA Central and Eastern European Law Initiative and the Board of Governors of the American Bar Association passed special resolutions of appreciation for Jim White's leadership in legal education. The American Bar Association and friends have established an annual endowed lecture on legal education at the law school in his honor.

Richard Danner

Richard A. Danner is Senior Associate Dean for Information Services, and Archibald C. and Frances Fulk Ruffy Research Professor of Law. In addition to his administrative responsibilities, he teaches a course on legislation, which focuses on statutory interpretation, and he has taught legal research and writing. His primary academic interests are in legislation, legal education, and legal research and bibliography. Mr. Danner has written recently on the impacts of information technology on legal education and the profession of law librarianship in the Journal of Legal Education, The Law Librarian, and Law Library Journal. His most recent work focuses on effects of electronic publication on the scholarly communication in law. Richard Danner is the author of Strategic Planning: A Law Library Management Tool for the '90s and Beyond (2d ed. 1997) and Legal Research in Wisconsin (1980), and contributes to journals in law and librarianship. He is the editor of Toward a Renaissance in Law Librarianship (1997) and co-editor (with Bernal) of Introduction to Foreign Legal Systems (1994). From 1984-94, Richard Danner served as editor of the American Association of Law Libraries Law Library Journal.

Professor Danner has been active in the affairs of the American Association of Law Libraries, the International Association of Law Libraries, the American Bar Association Section of Legal Education and Admissions to the Bar, and the Association of American Law Schools. He served as President of AALL in 1989-90 and has chaired several AALL special committees and task forces; he presently sits on the IALL Board of Directors, and on the Executive Committee of the AALS.

Professor Danner came to Duke from the University of Wisconsin-Madison in 1979, where he served as environmental law librarian while completing his degrees in law and library science.

Percy Luney, Jr.

Percy Luney, Jr. is the Dean of Florida A & M University, College of Law. Percy Luney received his A.B. in 1970 in geology from Hamilton College and his J.D. at Harvard in 1974. After earning his law degree, Mr. Luney served as an attorney-advisor for the U.S. Department of Interior. He worked as legal counsel and special assistant to the president at Fisk University from 1977-79 before joining the law firm of Birch, Horton, Bittner, Monroe, Pestinger & Anderson in Washington, D.C. as an associate. Percy Luney began his career at North Carolina Central University School of Law as the assistant dean in 1980 and became dean of the school in 1994.

Mr. Luney has served as a visiting professor at several universities including, Doshisha University Faculty of Law in Kyoto, Japan; Washington University School of Law; and University of Oregon School of Law.

From 1998 to 2000, Luney served as president of the National Judicial College in Reno, which is the oldest judicial education and training Institution in the United States. There he supervised the construction of a \$6 million, 32,000 square foot addition to the college and a \$2 million renovation project. He opened a new National Center on the Courts and Media and raised an \$800,000 matching endowment for the Center.

Deborah Weissman

Ms. Weissman is a Phi Beta Kappa graduate of Syracuse who co-founded the Project for Prisoners' Rights while in law school. She has had extensive experience in all phases of legal services advocacy, working on labor law and education-related civil rights law cases with the Legal Aid Society of Albuquerque, New Mexico, from 1975 to 1980, on family law and civil rights impact cases with Bay Area Legal Service in Tampa, Fla., from 1990 to 1994, and most recently, with Legal Services of North Carolina, where she served as deputy director from 1994 to 1995 and as executive director from 1996 to 1998. Ms. Weissman, who was also a partner in the civil rights firm of Heath, Rosenthal and Weissman in Syracuse, NY from 1980-1989, has worked on major litigation, administrative and legislative campaigns, and community outreach programs in many areas of law. She joined the UNC School of Law faculty in 1998 and became the director

of clinical and externship programs in 2001. She teaches domestic violence law, civil lawyering process, civil clinic, including immigration law matters, and a new policy clinic addressing issues related to gender-based violence in the local and international realm, which will provide students with the opportunity to engage in law related projects addressing ongoing human rights initiatives in this area. Deborah Weissman is the chair of the North Carolina Commission on Domestic Violence. Her research interests have focused on understanding and addressing problems of social justice.

Vice President and Legal Counsel Leslie Winner and Associate Vice President Michelle Howard-Vital from the Office of the President of The University of North Carolina served as ex-officio members of the team of examiners.