

UW-Oshkosh Foundation: Regents' flip flop and ill-advised political gamesmanship force UW-Oshkosh Foundation to file federal chapter 11 petition

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Foundation board chair says voluntary action will protect endowment, allow restructuring and help group resume mission

OSHKOSH, WIS — The UW Oshkosh Foundation, Inc. today said a policy flip flop and ill-advised political gamesmanship by the UW Board of Regents have forced the educational not for profit group to file a reorganization petition under Chapter 11 of the federal bankruptcy laws.

Tim Mulloy, Chairman of the Foundation's Board, said that but for the Regents' short sighted decision to reverse its earlier support and then later bow to political pressure, the bankruptcy petition could have been avoided and an appropriate solution benefiting taxpayers could have been agreed to among the parties involved. The petition was filed today in Wisconsin's Eastern District of Federal Court.

“This is a petition that never should have happened and could have been avoided,” Mulloy said. “When the projects at the core of this matter were first proposed several years ago, the Board of Regents was a strong, public supporter and even participated in celebratory events marking the completion of them. Indeed, the UW System had a senior finance staff person as an ex officio member of our board who was fully aware of our plans and offered no objections. But last summer, the Board suddenly had a change of heart and reneged on its earlier commitments and previously-approved lease agreements, reversing a policy that went back many years.”

Mulloy added that the Regents’ own special investigation, conducted by a former Dane County Circuit Court judge, found that the Foundation Board “acted in good faith” and that it “bears no fault of any kind” relating to the financing of the projects involved in the dispute. The Regents’ special investigation also found that “the Foundation Board exercised due diligence” in addressing the financing issues and that the “Board cannot be faulted in any way” and “has no culpability whatsoever” relating to the financing of the projects.

Mulloy also noted that months ago, the Foundation had reached a fair and reasonable settlement to the dispute with the UW Board of Regents that was focused on the actions of two former state employees, but “the Board again flip flopped on its position and caved in because of political pressure.”

Mulloy added that rather than trying to solve the problem, “the UW Board of Regents first abandoned its old public position and then bowed to State Capitol gamesmanship and pulled the rug out from under the feet of the parties who had developed a reasonable solution that would have avoided litigation and eliminated the need for our Foundation to file for reorganization.”

Mulloy said the Chapter 11 petition will “put the Foundation on a reasonable path to resolve numerous issues in an effective and efficient manner.” He added that the Chapter 11 filing also will stop the unnecessary and expensive litigation that has resulted from the Board of Regents walking away from its earlier support and a solution it previously had accepted.

Paul Swanson, an Oshkosh attorney representing the Foundation in the Chapter 11 proceeding, indicated that both the Foundation’s endowment and other donations held for specific purposes as directed by the donors are protected during the reorganization.

Swanson said that because these funds are, in effect, held in trust by the Foundation, they are beyond the reach of general creditors and must be used for the particular use for which they were given. Swanson added the Chapter 11 filing also allows the Foundation to seek reimbursement for losses sustained on projects undertaken to benefit UW-Oshkosh, but which have since soured.

“This filing will provide a single forum for all involved parties, including the Foundation, to be heard and have their disputes resolved. Most important, it will allow the Foundation to continue its charitable mission, which is to serve UW-Oshkosh and its students, free from the claims of its creditors,” Swanson said.

“After the state reversed its original position, failed to honor its earlier commitments and then most recently walked away from a fair resolution, we were left with very few options, and in an effort to protect our endowment and provide a reasonable path to restructure, we have reluctantly taken this step because it’s the best path forward,” Mulloy added.

“The Foundation has raised more than \$20 million for the betterment of UW-Oshkosh, and we are proud that we have helped fund scholarships, advanced the university’s academic mission and added an incredible gateway to the campus with our Alumni Welcome and Conference Center,” Mulloy noted.

“The UW Oshkosh Foundation takes its obligation to protect our donors and further our mission to help the state’s third largest university seriously, and while we would have preferred to avoid this step, it is the best way for us to get on with our mission and return our focus to helping make UW-Oshkosh an even better university than it already is today,” Mulloy said.