



# INVESTIGATIVE REPORT

## UNIVERSITY OF ILLINOIS COLLEGE OF LAW CLASS PROFILE REPORTING

**November 7, 2011**

*Prepared by Jones Day and Duff & Phelps under the direction of the  
Office of University Counsel and the University Ethics Office*



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## **INTRODUCTION**

As detailed in this Report, the University of Illinois College of Law (“COL”) disseminated inaccurate class profile information in six out of the ten years reviewed. The inaccurate information related to undergraduate grade point averages (“GPA”), Law School Admission Test (“LSAT”) scores, and acceptance rates. Underlying this information were unjustified changes to the GPAs and LSAT scores of individual students and other data manipulation. A single COL employee, who resigned during the course of this investigation, was responsible for this data manipulation. At a minimum, this former employee exhibited gross incompetence in the performance of his job duties. Moreover, the investigative record supports the conclusion that with respect to certain COL classes, the former employee knowingly and intentionally changed and manipulated data in order to inflate GPA and LSAT statistics and decrease acceptance rates.

This Report sets forth recommendations that address this conduct and the lack of internal controls that contributed to COL’s failure to prevent and quickly detect the inaccuracies. Effective implementation of these recommendations should help COL avoid the recurrence of similar data and compliance concerns. Finally, the Report includes assessments of certain other COL data—namely, scholarship funds, career placement, and bar passage rates—and concludes that there is no indication of inaccuracies or irregularities in any of these areas but that additional analysis would be necessary to fully verify the accuracy of the scholarship and placement data.

## I. EXECUTIVE SUMMARY

### A. Overview

For many years, COL has provided information regarding its student body to the American Bar Association (“ABA”), U.S. News & World Report (“USNWR”), and other third parties. On an annual basis, for instance, COL submits a report to the ABA that sets forth, among other data, statistical information relating to the most recently enrolled juris doctor (“J.D.”) class. This information includes “selectivity” data, as defined by USNWR—namely, the median LSAT score and the median GPA of the class, as well as the number of applications received and the number of admissions offers extended for the class (i.e., “acceptance rate” data). COL also publicly disseminates specific selectivity data as part of its marketing efforts.

On August 26, 2011, the University Ethics Office (“Ethics Office”) received information regarding possible inaccuracies with respect to the median LSAT score and the median GPA of the Class of 2014, which had matriculated earlier that month and which COL had hailed as “the most selective” and “most academically distinguished . . . class in [COL’s] history.” A preliminary analysis of this information by the Ethics Office supported the possibility that the median values that COL had announced for this class were inflated.

The Ethics Office notified the Office of University Counsel (“Counsel”) of this information, and members of the University’s leadership team, including the Board of Trustees, the President of the University, and top officials at the University’s Urbana-Champaign campus were, in turn, notified of the same. The University promptly launched this investigation. Outside counsel, Jones Day, and the independent advisory firm, Duff & Phelps, were retained to assist the Ethics Office and Counsel in the investigation. The investigation was led by Donna McNeely, the University’s Ethics Officer, and Scott Rice, the Campus Counsel and chief legal officer for the Urbana-Champaign campus. The primary investigative team consisted of Jones Day, operating under the direction of Theodore Chung, and Duff & Phelps, operating under the direction of Margaret Daley.

The investigation initially involved a review of selectivity data for the Class of 2014. At the direction of University President Michael J. Hogan and other members of the University’s senior leadership, the scope of the investigation was subsequently expanded by both timeframe and subject matter to encompass a review of the following data for the ten-year period beginning in 2002 and continuing through the present (the COL Classes of 2005 through 2014):

- GPAs and LSAT scores (medians and 25<sup>th</sup> and 75<sup>th</sup> percentiles);
- acceptance rates;
- financial aid/scholarship funds;
- career placement data; and
- bar passage rates.

Investigators interviewed 23 University and COL employees (some on multiple occasions), and reviewed nearly 125,000 documents. In addition, Duff & Phelps conducted extensive forensic analysis of documents and data uncovered in the investigation.

The investigation has revealed that the College reported and/or publicly disseminated inaccurate LSAT and GPA statistics—specifically, median, 25<sup>th</sup> percentile, and/or 75<sup>th</sup> percentile values—with respect to the Class of 2008 and the Classes of 2010 through 2014. The investigation revealed no such inaccuracies with respect to the Classes of 2005 through 2007, and the Class of 2009.

The information obtained, and the analysis conducted, in connection with the investigation support the conclusion that the LSAT and GPA inaccuracies for the Classes of 2011 through 2014 were based on changes made by COL’s former Assistant Dean for Admissions and Financial Aid Paul Pless (“Admissions Dean” or “Pless”) to the LSAT scores and GPAs of individual students. Pless made these changes after the COL office of admissions (“Admissions Office”) had received these LSAT scores and GPAs from the Law School Admission Council (“LSAC”), the organization that collects and makes available to law schools various data relating to law school applicants. All of these changes to LSAC data, which Pless recorded on spreadsheets that he kept within the Admissions Office, increased the students’ marks and, collectively, enabled Pless to compute median, 25<sup>th</sup> percentile, and 75<sup>th</sup> percentile values above those supported by the true student data. COL then reported these inflated values to the ABA, USNWR and other third-parties and/or disseminated the values in marketing materials. (No changes to LSAT scores or GPAs of any students in the Classes of 2008 or 2010 were discovered.)

### LSAT and GPA Discrepancies<sup>a</sup>

Class of	LSAT Discrepancy	No. of Students	GPA Discrepancy	No. of Students
2005	No	0	No	0
2006	No	0	No	0
2007	No	0	No	0
2008	Yes	0 <sup>b</sup>	Yes	0 <sup>b</sup>
2009	No	0	No	0
2010	Yes	0 <sup>b</sup>	Yes	0 <sup>b</sup>
2011	Yes	2	Yes	0 <sup>b</sup>
2012	Yes	1	Yes	12
2013	No	0	Yes	31
2014	Yes	109	Yes	58

<sup>a</sup> GPA differences of 0.01 are excluded from this summary

<sup>b</sup> Indicates discrepancy in ABA reporting but no changes in individual student-level data maintained by COL

As the following chart illustrates, COL reported and/or disseminated incorrect median LSAT scores and/or median GPAs with respect to the Classes of 2011 through 2014. With the exception of the median GPA for the Class of 2011, these inaccurate figures were based on changes to underlying student-level data.

### LSAT & GPA Differential–2011-2014

Class of	LSAT	LSAT Reported	GPA	GPA Reported
2011	165	166	3.55	3.59
2012	165	166	3.70	3.80
2013	167	167	3.60	3.80
2014	163	168	3.70	3.81

The investigation found no information indicating that changes to LSAT scores or GPAs of any students affected any admissions decisions on particular applicants to COL—that is, admissions decisions, including scholarship awards, appear to have been made based on the true, LSAC-maintained data. Nor does it appear that any COL students whose marks were changed ever had any knowledge of those changes.

The investigation has also revealed that COL reported and/or publicly disseminated inaccurate acceptance rate data with respect to four classes—the Classes of 2008, 2012, 2013, and 2014. With the exception of the Class of 2008, these inaccuracies are attributable to both over-counting the number of applicants and undercounting the number of admissions offers for the classes; with respect to the Class of 2008, the number of applicants was counted accurately, but the admissions offers were undercounted.

### Acceptance Rate Discrepancies

Class of	Offers	Reported Offers	Applicants	Reported Applicants	Acceptance Rate	Reported Acceptance Rate
2008	519	446	2,933	2,933	18%	15%
2012	1,248	1,031	3,389	3,516	37%	29%
2013	1,175	984	4,680	4,833	25%	20%
2014	853	837	4,219	4,377	20%	19%

COL also reports job placement, bar passage, and scholarship data to the ABA and USNWR. The investigation uncovered no information indicating that COL miscalculated or misreported job placement data or bar passage rates for any of the classes reviewed. The analysis of COL’s reported scholarship data yielded no evidence of misapplication of funds and no evidence of misreporting or wrongdoing. The analysis of the accuracy of the reported data, however, is inconclusive, due to an absence of work papers and ascertainable methodologies to

enable an informed assessment. The investigation did establish a positive statistical relationship between the amount of scholarship awards and the true LSAT scores and GPAs of the award recipients. In other words, it appears that scholarships were awarded by Pless based not on inaccurate COL data, but rather on actual LSAC data.

## **B. Principal Findings**

The principal findings of the investigation are as follows:

### **1. Erroneous Selectivity Data**

- COL reported and/or publicly disseminated erroneous GPA data for the Classes of 2008 and 2010 through 2014.
- COL reported and/or publicly disseminated erroneous LSAT data for the Classes of 2008, 2010 through 2012, and 2014.
- COL reported and/or publicly disseminated erroneous acceptance rate data for the Classes of 2008 and 2012 through 2014.

The erroneous GPA, LSAT, and acceptance rate data for the Class of 2014 were detected before COL submitted the information to the ABA or USNWR.

#### ***a. Class of 2014***

The selectivity data publicly reported for the Class of 2014 marks the culmination of a pattern of increasingly inaccurate data reporting that began at least as far back as 2008 (for the Class of 2011). Through an assortment of strategies, COL made a concerted effort to bring in its most highly credentialed class ever in 2011 (i.e., the Class of 2014), and in August 2011, it seemed as though it had succeeded in doing so. That month, COL announced that it had enrolled “the most academically distinguished . . . class in [COL’s] history.”

COL touted the Class of 2014 as having a median LSAT score of 168 (96<sup>th</sup> percentile) and a median GPA of 3.81 (on a 4.0 scale). This LSAT median elevated COL into a “rarefied level” that it had considered “profoundly unrealistic” just three years earlier. And the GPA median exceeded, ahead of schedule, the ambitious five-year median GPA goal of 3.7 that COL had set in 2006 as part of a strategic plan.

On August 22, 2011, Pless gave a presentation to COL faculty that covered the academic credentials of the incoming class, in isolation and in relation to historical trends. Pless represented to those in attendance that the Class of 2014 had a median LSAT score of 168 and a median GPA of 3.81. As the COL official with principal responsibility for recruiting applicants and sole decision-making authority over individual admissions decisions, Pless was congratulated for what he appeared to have accomplished with the Class of 2014.

The investigation has determined that, in this instance (as with earlier classes), appearances were deceiving. Based on data maintained by LSAC, the actual median LSAT score for the class was 163, not 168, and the median GPA for the class was 3.67, not 3.81.<sup>1</sup>

On an annual basis, COL set specific goals for the median LSAT score and the median GPA that it hoped to achieve with the upcoming J.D. class. The Class of 2014's median LSAT score not only failed to meet that year's goal of 168, but it dropped four points from the previous year's median of 167. The Class of 2014's median GPA (3.7) was one-tenth of a point below that year's goal of 3.8, which was the median GPA that COL had reported (inaccurately) for the previous year's class.

The investigation has revealed that underlying the inflated median figures that COL announced for the Class of 2014 were changes to the majority of the LSAT scores and to almost a third of the GPAs of the members of the class. These changes were made on spreadsheets that Pless maintained and used to calculate the class's median LSAT score and GPA. These spreadsheets demonstrate that—

- Changes were made to the LSAT scores of 109 students and to the GPAs of 58 students;
- Twenty-five students had both their LSAT score and GPA changed, while 42 students had neither changed;
- Every change was upward;
- The largest LSAT score change was 12 points, which occurred five times (all from 156 to 168);
- One hundred LSAT scores were increased by at least two points, while 64 scores were increased by at least seven points;
- The largest GPA change was 1.03 points (from 2.59 to 3.62);
- GPAs of 4.0 were ascribed to eight international students, even though under ABA reporting rules none of these students should have been treated as having had any GPA for purposes of computing the class's median GPA; and
- Thirty-six GPAs were increased by at least one-tenth of a point.

The vast majority of the changes “crossed” the announced, incorrect medians—that is, they raised scores that were below the announced medians to scores at or above the announced medians. Other changes were, in magnitude and number, sufficient to increase the 25<sup>th</sup> and 75<sup>th</sup>

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<sup>1</sup> The LSAC database does not contain the final GPAs of those COL students who were admitted under COL's “iLEAP” program (Illinois Law Early Action Program), described below. As shown below, when the GPAs of these students are included in the median GPA calculation for this class, the median is increased to 3.70.

percentile figures to levels well beyond those supported by LSAC data. All of the GPA changes were to five specific end values: (i) eight changes to 3.61 (the incorrect 25<sup>th</sup> percentile); (ii) 12 changes to 3.62; (iii) 13 changes to 3.81 (the announced, incorrect median); (iv) four changes to 3.87 (the incorrect 75<sup>th</sup> percentile); and (v) 21 changes to 4.0 (for international students and students admitted through the Illinois Law Early Action Program (“iLEAP”), described below).

***b. Class of 2013***

The changes to the GPAs of individual students in the Class of 2013, while not as extensive as those made to the GPAs of students in the Class of 2014, exceeded those made in prior years. In this instance, the median GPA derived from LSAC data was 3.6, which was short of the year’s goal of 3.8. The GPAs of 31 students were changed, all upward and all in a magnitude large enough to cross 3.75, the figure that then became the new, inflated median. COL was thus able to report and publicly promote a 3.8 GPA median by rounding 3.75 to 3.8, and thereby appear to have met that year’s GPA goal. One of these changes crossed 3.9, which enabled COL to report a 75<sup>th</sup> percentile GPA of 3.9 (adjusted up from 3.8, as provided by LSAC data).

The Class of 2013’s median LSAT score, based upon LSAC data, was 167, which was at or above COL’s goal for the class and which represented a one-point increase over the LSAT median of 166 that COL had reported for the preceding four classes (only two accurately). Notably, given that this goal was legitimately satisfied, no changes in underlying student data were needed to support the 167 median score, and, in fact, none were made.

***c. Class of 2012***

With respect to the Class of 2012, only one LSAT change (from 165 to 166) was needed in the student-level data to convert the true median LSAT score of 165, based on LSAC data, to an inflated score of 166. This lone change equalized the number of students who scored below 166 on the LSAT with the number of students who scored at or above 166 (according to LSAC data, there were two more students in the former, lower-scoring group), and increased the median to 165.5, which, for marketing and ABA/USNWR reporting purposes, could be, and was, rounded to 166.

By contrast, changes to the GPAs of 12 students were made that, collectively, moved the true GPA of 3.7 to 3.75, which also was rounded and subsequently reported as a median of 3.8. Each of these 12 changes crossed the inflated median—that is, the changes took a true GPA that was below 3.75 to an incorrect figure of 3.75 or above.

***d. Class of 2011***

The Class of 2011’s median GPA (3.55), as derived from LSAC data, fell short of the goal that COL had previously set for the class, 3.7. The Class of 2011’s median LSAT score, 165, likewise fell short of the goal (166), but by an even narrower margin. Out of the 188

students in the class, 93 had an LSAT score at or above the goal of 166, while 95 had an LSAT score below 166 (49 students had an LSAT score of precisely 166).<sup>2</sup> In other words, as Pless evidently understood, had only two students in the latter, lower-scoring group (i.e., those with scores below 166) actually scored a 166 or above, this 93-95 split would have reversed in favor of the higher group of scores, such that the LSAT median would have increased one point to 166.

From outward appearances, however, COL seemed to have achieved its LSAT median goal. This is because, before the final class profile was ever announced, the LSAT scores of two students were changed to 166, when, in fact, one had scored a 164 and the other had scored a 165. These changes occurred within COL's Admissions Office and were memorialized in spreadsheets maintained in that office. The changes had the effect of reversing the 93-95 split noted above, and became part of the data foundation for COL's claim, advanced in marketing materials and set forth in that year's submissions to the ABA and USNWR, that COL had enrolled yet another class—the fourth in a row—with a median LSAT score of 166.

The Class of 2011 appears to mark the beginning of a sustained pattern of inaccurate reporting of COL selectivity data based on changes to student-level data that increased in practice and scope through the Class of 2014.

## **2. Responsibility for Erroneous Selectivity Data**

Admissions matters at COL, including recruiting, application processing, admissions decisions, maintaining and calculating admissions-related data, and awarding merit scholarships, are the responsibility of the Admissions Office. This office was led by Pless as Admissions Dean from 2004 until Pless's recent resignation, and currently has four other employees.

In his capacity as Admissions Dean, Pless managed the admissions process and was responsible for, among other things, compiling admissions data and preparing statistical reports based on such data. In particular, for each entering class, the Admissions Dean computes, among other things, the class's median LSAT score and median GPA, the numbers of applications submitted and offers of admission extended, and the amount of scholarship funds and financial aid provided. Pless caused this information to be included in COL marketing materials and in submissions to the ABA and USNWR, which publishes a closely followed and highly influential annual ranking of U.S. law schools.

Over Pless's seven-year tenure as Admissions Dean, COL showed steady, and occasionally dramatic, improvement in the main numeric factors used by USNWR to gauge the academic credentials of a law school class—the class's median LSAT score and median GPA. This improvement helped COL attain and hold a place among the “T-25,” the top 25 U.S. law

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<sup>2</sup> As discussed below, three students had taken the LSAT under nonstandard or “accommodated” conditions. While the scores of such test-takers should not be included in a law school's calculation of the median LSAT score for a given class, the investigation revealed that Pless did include the scores of accommodated test-takers in his median calculations for this and other classes. In any event, if the three scores at issue for the Class of 2014 are removed from the median calculation, the median is unaffected; this would result in 93 scores below 166 and 92 scores at or above 166.

schools, according to USNWR. Pless's perennial success in recruiting highly credentialed classes into COL helped earn him praise from COL leadership and a series of pay raises that took his annual salary from \$72,000 in 2004 (his first year as Admissions Dean) to \$130,051 in 2011.

The fact-gathering and analysis conducted in connection with this investigation indicate that Pless made changes to and otherwise manipulated selectivity data, and that this data manipulation led to COL's reporting and public dissemination of erroneous selectivity data statistics for certain COL classes. The investigation found no information indicating that, prior to the commencement of the investigation, any person other than Pless knew that any selectivity data had been manipulated or that erroneous selectivity data had been reported or disseminated by COL.

Pless contends that he may have inadvertently made "mistakes" in organizing and sorting student data related to the Class of 2014, and that such mistakes may have resulted in the miscalculation of that class's selectivity data. As set forth herein, Pless has offered other explanations for inconsistencies between COL-reported selectivity data and LSAC data with respect to the Classes of 2011, 2012, and 2013. The findings of the investigation do not support Pless's explanations.

Even if Pless's explanations are assumed to be true, by failing to ensure the accuracy of selectivity data across multiple years, to the detriment of COL and the University as a whole, Pless exhibited gross incompetence in the performance of his job duties—the inaccuracies described in this Report are simply too great in number, magnitude, and effect to conclude otherwise.

The facts and circumstances uncovered by this investigation, as well as the extensive forensic analysis conducted as part of the investigation, however, support the conclusion that the changes to the LSAT scores and GPAs of individual students were not inadvertent, but made knowingly and intentionally by Pless, and Pless alone, to give the appearance that the classes at issue had higher marks than they had in reality. Similarly, the forensic analysis supports the inference that, with respect to the Classes of 2012 through 2014, Pless also knowingly and intentionally overstated the total number of applications to COL, while simultaneously understating the number of offers of admission extended, so as to give the appearance that the acceptance rates in those years were lower (and that COL was therefore more selective) than was in fact the case.

### **3. Tone at the Top and Lack of Internal Controls**

The investigation has not revealed concerns with the institutional culture or "tone at the top" at the University, the Urbana-Champaign campus, or COL. Indeed, it appears that COL and its administration, under the leadership of current COL Dean Bruce Smith, are appropriately committed to the principles of integrity, ethics, and transparency, and communicate this commitment with appropriate clarity and regularity.<sup>3</sup>

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<sup>3</sup> With respect to Smith's management style, some observed that he is goal-oriented and intense, and occasionally intimidating, and that it is not inconceivable that certain employees subordinate to him would be

The investigation has revealed, however, that COL's reporting and dissemination of inaccurate selectivity data persisted and went undiscovered for years, in part, because COL lacked effective internal controls and oversight to prevent, deter, and detect the miscalculation (inadvertent or intentional) of selectivity data. It is apparent that the COL administration, through the tenures of two Deans and two Interim Deans, never appreciated the compliance risks in this area and thus saw no need to establish such controls. This stemmed in large measure from long held and widely shared perceptions of Pless as an outstanding employee with a particular acumen for delivering highly credentialed classes, exceptional data management skills, and strong tendencies toward forthrightness and transparency. This led Dean after Dean to certify to the ABA that COL's selectivity statistics were accurate, when in fact they were not for six of the ten years reviewed.

As this investigation demonstrates, the heavy reliance that the COL administration placed on Pless was misguided. To be sure, the benefit of hindsight can easily obscure the practical difficulties of recognizing latent risk factors at the time those risks manifested in problematic conduct, and a compliance regime that reposes some trust and autonomy in employees is certainly not inherently flawed. Nevertheless, adequate controls and oversight would have been particularly useful and advisable here, given that (i) the data reporting and verification duties were consolidated in one person, Pless, who stood to benefit professionally and personally from positive outcomes; (ii) access to the LSAC database and the data relating to individual students contained therein was restricted to Admissions Office personnel, all of whom were in positions subordinate to Pless; and (iii) no persons or entities outside COL (e.g., a separate college or office within the University, the ABA, USNWR, LSAC) had a practice or requirement of performing, or did perform, audits or similar activities by which to verify the accuracy of the data.

#### **4. Financial Aid/Scholarship Funds**

An analysis of scholarship and financial aid data obtained from COL and the University's Office of Student Financial Aid ("Financial Aid Office"), and the relevant data that COL reported to the ABA, LSAC, and USNWR for each of the academic years from 2005-2006 through 2010-2011, yielded no evidence of misapplication of funds and no evidence of misreporting or wrongdoing. The analysis of the accuracy of the reported data for this period, however, was inconclusive.

Through interviews of Admissions Office staff, including Pless, it was established that Pless awarded scholarships to both incoming and returning second- and third-year law students from an annual scholarship pool that recently has exceeded \$8 million. Pless had authority to

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(continued...)

uncomfortable bringing bad news to him. While we put forth recommendations below that seek to ensure open and appropriately candid communication by COL and among COL employees of all levels, we note that no person who provided information in connection with this investigation attributed any of the conduct described in this Report to Smith's management style.

make scholarship awards unilaterally, and he typically did so, deciding both to make the awards and the amounts thereof without consulting other COL officials.<sup>4</sup> Awards appear to have been determined in light of certain selectivity and other class profile goals (e.g., LSAT, GPA, class diversity).

Scholarships awarded by Pless were funded from a variety of sources. The main source was in the form of tuition remission (“COL Scholarships”), but there were also some endowed scholarships and University-administered private scholarships. Once Pless determined students’ scholarship amounts, his staff transmitted the amounts to the campus Financial Aid Office, which administers all aid to students in the form of scholarships, loans, grants, tuition remissions, and fee waivers. At no time did Pless himself disburse any funds.

The Financial Aid Office reported back to COL the total amount of scholarship funds and other aid sources—up to 22 in all—it administered on behalf of COL students. While that information may have served as a basis for COL’s reporting of scholarship amounts to the ABA and USNWR, Pless exercised sole authority over such reporting and executed it himself. There is little understanding of how this was done by Pless, due to an absence of work papers in his files or in the files of the Admissions Office. Because of this, Duff & Phelps was unable to reconcile the scholarship amounts reported by COL with the amounts reported by the University to COL. The ABA requires the total amount of “all scholarships, fellowships, and grants” to be reported. In every year reviewed, the total amount reported to the ABA exceeded the scholarship amount reported to COL by the Financial Aid Office. Due to the lack of supporting evidence, it is unclear whether this discrepancy arises from the multiple sources of student aid available and the possible ways in which Pless categorized aid sources. It may be that in the reporting by the Financial Aid Office to COL, or by COL to the ABA, some forms of aid were either omitted or included in the calculations that would account for the discrepancy.

Law schools also provide scholarship amounts to LSAC for inclusion in the LSAC database. Scholarship reporting to LSAC consists only of tuition remissions, which are designated as “COL Scholarships.” An examination of that reporting yielded no discrepancies between COL Scholarships recorded by the Financial Aid Office and the scholarships reported to LSAC.

In short, the absence of work papers and transparency in the process of awarding scholarships by COL means that it is not possible to identify reporting discrepancies without further sustained analysis. This, coupled with the vesting of sole control over the award process in one person whose methods were not subject to scrutiny and who controlled a substantial award budget, represents a serious control deficiency that should be remedied.

Duff & Phelps also assessed whether Pless was able to remove any money from the scholarship process for his own benefit and found no reason to suspect that he could or that he

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<sup>4</sup> From time to time, Pless did confer with the COL Dean with respect to the distribution of “retention scholarships”—funds awarded to students who had exhibited outstanding achievement during their first year of law school and who might be considering transferring to other law schools.

had. Pless had no authority over the disbursement of funds; fund disbursement was administered centrally by the Urbana-Champaign campus via credits to student accounts and direct deposits into student bank accounts, and thus there was no systemic opportunity to remove funds from the process. No allegations or evidence of wrongdoing on the part of Pless or students receiving funds have been received or uncovered in connection with Duff & Phelps's scholarship analysis.

## **5. Career Placement Data**

Career placement during the period investigated was the responsibility of the Assistant Dean for Career Planning and Professional Development, who exercised sole control over, and actually executed the reporting of, career placement statistics to the National Association for Legal Career Professionals ("NALP"), from which USNWR derives statistics for use in its ranking methodology. COL maintained career placement data in (i) a General Employment Survey ("GES") hosted on "Symplicity," an enterprise system from which data could be exported to NALP, and (ii) beginning in 2010, on a "Dashboard," wherein information derived from student contact with career counselors and other COL personnel was kept and was accessible to the Associate Dean for Career Planning and Professional Development, counselors in the Office of Career Planning and Development ("Career Office"), the COL Dean, and others.

While the investigation did not undertake a student-by-student analysis of reported placement data due to the numerous third-party contacts it would have required, a comparison of Dashboard to GES data for the Class of 2010 yielded no evidence of misreporting and only a few minor discrepancies. This, coupled with the fact that there was no significant or suspicious spike in reported employment around reporting periods, generally suggests that career placement data were accurately reported. A student-by-student survey of actual employment at the established reporting intervals, however, would be necessary to establish this conclusively.

## **6. Bar Passage Rates**

Tracking and reporting of bar passage rates was the responsibility of the Assistant Dean for Academic Administration and Dean of Students ("Academic Administration Dean"). A comparison of actual COL student bar passage data obtained from the jurisdictions in which the largest number of COL graduates take the bar examination—Illinois and New York—with COL's reported passage rates showed no discrepancies. In other words, the bar passage rates calculated from the underlying official data from these jurisdictions correspond with those that COL reported to the ABA and USNWR.

## **C. Investigation Recommendations**

During the course of this investigation, the University and COL undertook personnel action and other steps to address the conduct described herein, to ensure the accuracy of the student profile data that COL will provide in this year's ABA and USNWR submissions, and to mitigate the risk of recurrence of data inaccuracies and irregularities going forward. For instance, on September 7, 2011, Pless was placed on administrative leave. On November 4, 2011, Pless tendered his resignation to COL, effective immediately. Also, with respect to COL's upcoming ABA and USNWR submissions, Duff & Phelps has worked, and continues to work, closely with COL officials in the review and verification of data to be included in these submissions.

In addition to steps already undertaken, COL should implement the following measures as promptly as practicable:

**1. Correction of Erroneous Reported/Disseminated Data**—We recommend that the COL Dean take all necessary steps to promptly disclose and correct all erroneous data uncovered by this investigation. This is of particular importance given that COL Deans have signed certificates attesting to the accuracy of information submitted to the ABA, and COL has widely disseminated inaccurate information relating to the profiles of multiple classes, as described herein.

**2. Development and Implementation of Appropriate Controls, Including Effective Segregation of Duties**—We recommend that the COL Dean ensure that a comprehensive review of control procedures within COL is conducted to identify and implement best practices in the area of data compilation and reporting, in consultation with professionals and/or institutions having relevant experience and expertise (e.g., data verification processes, fraud detection). While we acknowledge the need, in an extraordinarily competitive and often time-sensitive environment, for the Admissions Office to be nimble and prompt in making admissions-related decisions (e.g., decisions to admit, scholarship awards) and otherwise responding to applicant inquiries and concerns, a revamped control regime should avoid excessive concentration of decision-making authority in any single individual, and responsibility for compiling, computing, and verifying data should be appropriately distributed across a sufficient number of individuals to ensure full compliance with applicable rules and guidelines.

On an ongoing basis, COL should evaluate the efficacy of its controls and, of course, timely make any necessary modifications thereto.

**3. Robust Monitoring/Audit Function**—We recommend that COL develop and implement a monitoring and auditing program sufficient to ensure that the internal controls are functioning properly and that all data reported to constituencies or other third parties, whether internal or external (e.g., faculty, students, media, ABA, USNWR, LSAC, industry publications), are accurate and supported. Further, we recommend that all supporting documentation and calculations be maintained in accordance with a document retention policy setting forth reasonable retention terms and conditions (e.g., duration of retention for specified categories of documents).

**4. Assessment of Risks Relating to Other Data**—COL annually reports to the ABA, USNWR, LSAC, and other organizations data that are not within the scope of this investigation. In light of the findings of the investigation, we recommend that the COL Dean undertake a review of any other data for which a discernable risk of miscalculation and misreporting exists.

**5. Institutional Culture**—We recommend that the COL Dean and other members of the COL leadership team take steps to reinforce COL's commitment to integrity and ethical conduct, and to make clear to the COL community that unethical behavior will not be tolerated.

**6. Advocacy for Transparency and Data Integrity**—As a public institution, COL has an obligation to instill trust in the integrity of its information and personnel. COL should consider seizing this opportunity not simply to come into compliance with current data reporting requirements and guidelines, but to champion industry-wide reforms that would provide heightened transparency for key constituencies and stakeholders (e.g., other law schools, prospective and current students, legal employers, faculty, employees, alumni, and donors), as well as the public at large.

**7. Vigilance on Institutional Priorities and Employee Incentives**—While COL has much work to do to repair the damage sustained as a result of this matter, it remains one of the premier law schools in this country, and nothing in this report should be construed as disparaging the clear and long-standing ambition of COL to enhance its standing among peer institutions. To the contrary, this ambition animates COL and, if channeled appropriately, promises to enable COL to quickly resume its generally laudable effort to enhance the strength of the institution and its national reputation. As it recovers from this episode, COL should remain vigilant against placing undue emphasis on any particular data or factor in its admissions process and creating unchecked incentives for employees that might lead to conduct contrary to the best interests of the institution.

**8. Appropriate Promotion of Whistleblower Program (Institutional Benefits and Personnel Protections)**—Even though, as this investigation revealed, COL reported and disseminated erroneous selectivity data over multiple years, it is noteworthy that, in this instance, the University effectively self-policed; it obtained information and thereafter reviewed and acted upon that information in ways that will both address the historical conduct at issue and better position COL from a transparency and integrity perspective in the future. We recommend that University, campus, and COL administration ensure that the University community understands the long-term benefits that inure to the University from personnel stepping forward with information, and that individual employees understand the protections they are afforded when doing so. This will underscore the University's commitment to the reliability of its data and integrity in all respects. This matter may present opportunities to reinforce the institutional policies and culture that, in this case, resulted in important information being presented to the Ethics Office for investigation.

## **II. INVESTIGATION: APPROACH**

### **A. Oversight**

The investigation was led by Donna McNeely, the University's Ethics Officer, and Scott Rice, Campus Counsel and chief legal officer for the Urbana-Champaign campus. The primary investigative team consisted of attorneys and other professionals from Jones Day, operating under the direction of Theodore Chung, and from Duff & Phelps, operating under the direction of Margaret Daley.

### **B. Documents Reviewed and Other Information Gathered**

The investigation involved the review and analysis of just over 457 gigabytes of electronic data, as well as several boxes of paper documents. Appendix<sup>5</sup> ("App.") 1. These data were collected from 14 custodians, including members of the Admissions Office and the Career Office, and several faculty members, as well as from specific shared network locations. From this collection, 585,319 documents were culled and processed for review by Jones Day and Duff & Phelps. In addition, COL personnel supplied information and additional documents in response to written questions posed by investigators.

### **C. Interviews**

Investigators interviewed the following 23 University and COL employees (an asterisk indicates that the person was interviewed more than once):

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<sup>5</sup> Accompanying this Report is an Appendix containing documents cited to herein and work papers related to the forensic analysis conducted by Duff & Phelps. Certain Appendix items have been redacted, in part, in accordance with applicable privacy provisions and policies.

<b>NAME</b>	<b>TITLE</b>
Ralph Brubaker	Professor, former Interim Dean
Patricia Camp	Admissions Assistant
Patricia Carlson	Admissions Coordinator
Jolynn Caroline	Interim Director of Career Planning and Professional Development
John Colombo*	Associate Dean for Academic Affairs
Julie Griffin	Assistant Director for Financial Aid
Chris Higgins	Associate Dean for Advancement
Heidi Hurd	Professor, former Dean
Robert Lawless	Professor
Cheryl Long	Administrative Assistant
Dan Mann	Director of Urbana-Champaign Office of Student Financial Aid
Greg Miarecki*	Executive Assistant Dean for Career Planning and Professional Development
Paul Pless*	Former Assistant Dean for Admissions and Financial Aid
Warren Raquel	Urbana-Champaign Senior IT Security Analyst
Suzanne Rogers*	Assistant Director for Admissions and Financial Aid
John Rossi	Executive Assistant Dean
Doyle Slifer	Director of Data Services
Bruce Smith*	Dean
Charles Tabb	Professor, former Interim Dean
Carleen Taylor	Recruiting Assistant
Carolyn Turner	Assistant Dean for Strategic Initiatives
Dan Vander Ploeg	Director of Information Services
Virginia Vermillion*	Assistant Dean for Academic Administration and Dean of Students

**D. Forensic Analysis**

The University worked with Duff & Phelps to preserve and transfer the data collected in a forensically sound manner, maintaining a proper chain of custody throughout. App. 1. Complete Discovery Source, a data processing company, processed the data and loaded the documents into “Relativity,” a secure online document review tool. Access to these data was limited to Jones Day attorneys, Duff & Phelps specialists, and specific University personnel. Document review and analysis commenced on September 12, 2011, and was substantially complete by October 12, 2011.

As the primary method of review, Jones Day attorneys crafted and applied sets of search terms to the electronic data, and conducted a page-by-page review of the results. This process yielded 124,329 documents for review and analysis. Categories of documents reviewed included email communication, documents and other loose-file data stored on work computers and personal network drives, and data stored on shared network repositories. After preliminary analysis indicated that material data misrepresentations had begun with the Class of 2011, the

review was focused on the period starting in June 2007. As suggested by the ongoing interview and analysis process, however, Jones Day attorneys also conducted specific and exhaustive investigations into particular time-periods, factual circumstances, policies, and trends and incidents, going beyond the search-term results and time-limits.

Duff & Phelps focused its investigation on the student and school data collected, analyzing the differences between reported statistics and the actual student data maintained by LSAC and/or by COL. Duff & Phelps also worked with the University Information Security team to conduct a forensic analysis of the work-computer hard-drives of Pless and Smith, to determine whether there had been any potentially relevant deletions or other unusual data activity during the relevant timeframe. No such activity was found.

### **III. BACKGROUND**

#### **A. University of Illinois**

The University of Illinois is the State of Illinois' flagship institution of higher education. The University consists of three campuses—Urbana-Champaign, Chicago, and Springfield. A 13-member Board of Trustees governs the University. The President of the University is the chief executive officer of the University. Each campus is led by a Vice President/Chancellor who reports to the University President, and a Provost who serves as the campus's chief academic officer.

#### **B. COL**

COL was established in 1897 and is located on the Urbana-Champaign campus, where it is one of 16 colleges and institutes. COL is led by a Dean (currently Smith), who serves as the chief executive officer of COL and reports to the campus Provost. Various associate and assistant deans with prescribed responsibilities, including the Admissions Dean, report to the Dean.

#### **C. Relevant ABA Standards**

COL was accredited by the ABA in 1923 and has maintained its accreditation in good standing since that time. Each fall, ABA-accredited law schools submit a response to the ABA's annual questionnaire ("ABA Questionnaire"), a multi-part form that solicits a wide range of administrative and operational information, including the student profile data at issue in this investigation.

The ABA has promulgated standards governing ABA-accredited law schools.<sup>6</sup>

##### **1. Standard 101 (Basic Requirements For Approval)**

ABA Standard 101 states: "A law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards."

As set forth in interpretive guidance that the ABA has issued with respect to Standard 101 (Interpretation 101-1), accredited law schools are required to submit periodically to the ABA information that bears upon the schools' compliance with its standards:

*To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with*

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<sup>6</sup> The 2011-2012 edition of the ABA Standards is available at [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2011\\_2012\\_standards\\_and\\_rules\\_for\\_web.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2011_2012_standards_and_rules_for_web.authcheckdam.pdf).

*sound legal education principles and is being operated in compliance with the Standards, a law school shall furnish an annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee and Council may require. These documents must be complete and accurate and submitted timely in the form specified. The information provided by these means not only informs the Council about the status of each law school but also enables the Council, in meeting its obligations with respect to legal education as a whole, to ascertain national norms of legal education, areas in which improvements are being made, and those where further attention is needed.*

## **2. Standard 501 (Admissions)**

ABA Standard 501(a) states: “A law school shall maintain sound admission policies and practices, consistent with the objectives of its educational program and the resources available for implementing those objectives.” Corresponding interpretive guidance (Interpretation 501-1) specifies: “*Sound admissions policies and practices may include consideration of admission test scores, undergraduate course of study and grade point average, extracurricular activities, work experience, performance in other graduate and professional programs, relevant demonstrated skills, and obstacles overcome.*”

## **3. Standard 503 (Admission Test)**

Under ABA Standard 503, accredited law schools must “require each applicant for admission as a first year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant’s capability of satisfactorily completing the school’s educational program.” This standard further provides that, “[i]n making admissions decisions, a law school shall use the test results in a manner that is consistent with current guidelines regarding proper use of the test results provided by the agency that developed the test.” Interpretation 503-2 makes clear, however, that “[t]his Standard does not prescribe the particular weight that a law school should give to an applicant’s admission test score in deciding whether to admit or deny admission to the applicant.”

Interpretation 503-4 directs accredited law schools to “[t]he ‘*Cautionary Policies Concerning LSAT Scores and Related Services*’ published by the Law School Admission Council” (“LSAC Cautionary Policies”) as “*an example of the testing agency guidelines referred to in Standard 503.*” The LSAC Cautionary Policies advise against “us[ing] the LSAT score as a sole criterion for admission,” “strongly discourage” the “improper use of cut-off scores . . . (those below which no applicants will be considered),” and urge schools to “[c]arefully evaluate LSAT scores earned under accommodated or nonstandard conditions.”<sup>7</sup>

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<sup>7</sup> With respect to such scores, the LSAC Cautionary Policies state:

LSAC has no data to demonstrate that scores earned under accommodated conditions have the same meaning as scores earned under standard conditions. Because the LSAT has not been validated in its various accommodated forms, accommodated tests are identified as nonstandard and an individual’s scores from accommodated tests are not averaged with scores from tests taken under standard conditions. The fact that accommodations were granted for the LSAT should not

The ABA has provided law schools with guidance concerning how to treat the LSAT scores of any students who took the LSAT test “under nonstandard conditions,” in determining a class’s LSAT statistics for ABA reporting purposes. This guidance appears in the ABA Questionnaire. With regard to nonstandard LSAT tests, the ABA Questionnaire states:

If a matriculant took the LSAT under nonstandard conditions you should exclude this matriculant from your calculation of 75th, median, and 25th percentile calculations. This exclusion should apply whether the matriculant took the LSAT one time or multiple times, so long as at least one test was taken under nonstandard conditions. You can tell on the face of the LSDAS report when a test was administered to an applicant under nonstandard conditions because there will be no score band, no percent rank, and no index calculation associated with that score.

App. 3 at 2. (The “LSDAS report” referred to in the ABA Questionnaire is the report that LSAC prepares for each law school applicant and that contains information relating to the applicant’s LSAT test score(s), among other data.)

#### **4. Standard 509 (Basic Consumer Information)**

ABA Standard 509(a) mandates that accredited law schools “fair[ly] and accurate[ly]” publish certain “Basic Consumer Information.” “A law school shall publish basic consumer information. The information shall be published in a fair and accurate manner reflective of actual practice.” ABA Interpretation 509-1 lists the “consumer information [that is] considered basic” for purposes of this standard:

- admission data;
- tuition, fees, living costs, financial aid, and refunds;
- enrollment data and graduation rates;
- composition and number of faculty and administrators;
- curricular offerings;
- library resources;
- physical facilities; and

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(continued...)

be dispositive evidence that accommodations should be granted once a test taker becomes a student. The accommodation needed for a one-day, multiple choice test may be different from those needed for law school coursework and examinations. App. 2.

- placement rates and bar passage data.

## **D. Relevant University Conduct Standards**

### **1. Code of Conduct**

The University has adopted a Code of Conduct that “establishes guidelines for professional conduct by those acting on behalf of the University including executive officers, faculty, [and] staff . . . .” App. 4. The Code of Conduct provides, in part, as follows:

Those acting on behalf of the University have a general duty to conduct themselves in a manner that will maintain and strengthen the public’s trust and confidence in the integrity of the University and take no actions incompatible with their obligations to the University.

With regard to professional conduct, those acting on behalf of the University should practice:

- Integrity by maintaining an ongoing dedication to honesty and responsibility;
- Trustworthiness by acting in a reliable and dependable manner; [and] . . .
- Compliance by following State and Federal laws and regulations and University policies related to their duties and responsibilities . . . .

### **2. Business and Financial Policies and Procedures Manual**

Section 9.5 of the University’s Business and Financial Policies and Procedures Manual (“Business Policies Manual”) describes the University’s policy on “Reporting and Investigation of Fraud or Misconduct,” the purpose of which is “to define employee and management responsibility for reporting fraud or potential fraud and to establish procedures for addressing wrongful conduct.”<sup>8</sup> App. 5. This policy specifies that management employees “are responsible for detecting fraudulent activities or misconduct in their areas of responsibility” and that “[e]ach manager should be familiar with the types of improprieties that might occur in his/her area and be alert for any indication that improper or dishonest activity is or was in existence in his/her area.”<sup>9</sup>

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<sup>8</sup> Section 9.5 defines “employee” as “anyone who is compensated by the University or paid a fee for services by the University,” and “management” as “any administrator, manager, director, supervisor, or other individual who manages or supervises University resources.”

<sup>9</sup> Under Section 9.5, “[e]mployees are prohibited from obtaining an unauthorized benefit for themselves or others by deception, misrepresentation or other unethical means,” including by “[f]orgery, falsification, or alteration of documents (checks, promissory notes, time sheets, travel expense reports, contractor agreements, purchase orders, other financial documents, electronic files, etc.).”

Under the Business Policies Manual, University managers are required to inquire into possible misconduct and address any misconduct that is discovered: “When dishonest or improper activity is detected or suspected, management should determine whether an error or misunderstanding has occurred or whether possible fraud exists. Management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent the reoccurrence of fraud.”

The Business Policies Manual requires University employees to cooperate with investigations conducted by certain administrative offices and law enforcement agencies:

University employees are required to cooperate with the University Ethics Office, Office of University Audits, University Police/Public Safety, the Office of the Executive Inspector General, and other involved law enforcement agencies in the detection, reporting, and investigation of fraud, including the prosecution of offenders. The University Ethics Office, Office of University Audits, University Counsel or University Police/Public Safety will direct management involvement in any University investigation.

### **3. Campus Ethical Code of Practice**

In the fall of 2009, the Urbana-Champaign campus adopted an “Ethical Code of Practice” relating to admissions (“UIUC Ethical Code”). App. 6. This code “is guided by the highest standards of fairness to applicants, transparency of process, equality of access, privacy, and responsiveness,” and “is in accordance with the Statement of Principles of Good Practice issued by the National Association for College Admission Counseling (NACAC).” NACAC’s Statement of Principles of Good Practice (“NACAC Principles”) contains a recitation of certain “Core Values,” including “Professionalism” (“We believe our work in counseling, admission and enrollment management is professional only to the extent that we subscribe to and practice ethical behavior, as stated in our Member Conventions.”) and “Trust” (“We believe our profession . . . is based upon trust, mutual respect and honesty, with one another and with students.”). App. 6. The NACAC Member Conventions provide, in part, that “[m]embers will provide accurate admissions . . . information to students,” and “will be ethical and respectful in their counseling, recruiting, and enrollment practices.” Similarly, the NACAC Principles state that all NACAC members will agree to “accurately represent and promote their schools, institutions, organizations, and services.”

## **E. COL Admissions**

### **1. Admissions Office and Personnel**

The Admissions Office is typically staffed with an Admissions Dean and four other COL employees—(1) an Assistant Director for Admissions; (2) an Assistant Director for Financial Aid; (3) an Admissions Coordinator; and (4) an Admissions Assistant.

The four other COL employees currently in the Admissions Office have worked in the Office for the following lengths of time:

- Assistant Director for Admissions (since 2007)
- Assistant Director for Financial Aid (since 2008)
- Admissions Coordinator (since 1997)
- Admissions Assistant (since 1998)

## **2. Admissions Process<sup>10</sup>**

This investigation is related to students in COL's traditional three-year J.D. program. COL also confers various joint degrees (e.g., J.D.-M.B.A.), and advanced legal degrees (i.e., LL.M. (Master of Laws) and S.J.D. (Doctor of the Science of Law)).

### ***a. Application Materials and CAS Database***

COL accepts applications to its J.D. program from September to March. Applicants are generally required to take the LSAT and to submit certain materials as part of their applications, including undergraduate and any graduate transcripts, resumes, letters of recommendation, and personal statements. In addition, beginning in 2010, applicants to COL had the option of submitting a "Why Illinois Essay" that sought additional information regarding the applicants' interest in, and ability to contribute to, COL.<sup>11</sup>

Since 2009, the Admissions Office has had a "paperless" review process—instead of reviewing hard-copy documents sent to the Office by applicants, Admissions Office personnel are able to review application materials and LSAT scores by accessing a password-protected online database maintained by LSAC's Credential Assembly Service ("CAS"). It appears that, at all times relevant to this investigation, the only COL employees who were authorized to access the CAS database were Admissions Office personnel.

Applicants are required to register with CAS and to submit their applications and application materials to CAS. Law schools are able to review CAS-maintained information relating to their respective applicants; they are not able to review information relating to applicants to other schools. For each applicant, CAS prepares a "report" (the LSDAS report)

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<sup>10</sup> In connection with this investigation, Pless provided a written overview of COL's admissions process. App. 7.

<sup>11</sup> With respect to the Class of 2014, Duff & Phelps analyzed whether providing a Why Illinois essay had any statistically apparent effect on admissions decisions. Duff & Phelps found, among other things, that the applicants who provided an essay were admitted (or denied or waitlisted) at approximately the same rate as applicants who did not, and likewise that applicants with similar LSAT scores and GPAs were admitted at essentially the same rate, regardless of whether they had submitted a Why Illinois essay or, if they had, how well they scored on the essay.

that contains the applicant's materials and a summary cover sheet setting forth, among other things, the applicant's LSAT score(s) and undergraduate GPA. (Applicants are able to take the LSAT multiple times; in such cases, law schools are to rely on the highest score achieved when calculating and reporting a class's median, 25<sup>th</sup> percentile, and 75<sup>th</sup> percentile figures.) An applicant's entire application file is available to those schools to which the applicant is applying, and can also be accessed by authorized personnel at those schools through the CAS online database.

***b. COL's "Holistic" Review of Applications***

COL reviews applications "holistic[ally]" and "seeks to admit students of outstanding intellectual ability who will bring a broad range of backgrounds, experiences, and perspectives to the classroom as well as to the legal profession." App. 8 at 84, 94. While COL accords "substantial weight" to applicants' GPAs and LSAT scores, it "does not have a minimum GPA or LSAT score requirement," nor does it automatically admit applicants with GPAs or LSAT scores above any particular level. App. 8 at 84.

Applications are reviewed on a rolling basis. Pless reviewed, and had final decision-making authority over, all COL applications.<sup>12</sup> The Assistant Director for Admissions also reviews applications and made recommendations to Pless as to the decisions on those applicants, most of which Pless adopted. Pless also had sole decision-making authority with respect to whether to award an applicant a scholarship and, if so, the amount of the scholarship.<sup>13</sup>

***c. Timing and Type of Admissions Decisions***

COL has an "Early Decision" process; applicants who avail themselves of this process are notified of their admissions decisions late in the calendar year prior to the year they matriculate. Other applicants are notified on a rolling basis beginning shortly thereafter. Applicants are initially admitted, denied, or put on "hold." The Admissions Office also establishes a waitlist of applicants in the course of the admissions season. To reserve a spot in the COL's class, admitted applicants are required to provide an initial deposit (usually in April), and then a second, larger deposit (usually in May). Admitted applicants may pay deposits at multiple law schools as they decide which school ultimately to attend. Meanwhile, the Admissions Office maintains contact with waitlisted applicants to determine whether they are interested in remaining on the waitlist.

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<sup>12</sup> COL has a faculty Admission Committee that, at one time, had substantially more involvement in admissions decisions. In the early 2000s, for instance, this committee reviewed individual applications as a part of COL's normal admissions process. More recently, however, the committee has functioned as an advisory and policymaking body, and the task of reviewing and passing on individual applications has rested exclusively with the Admissions Office—Pless, in particular.

<sup>13</sup> Admitted applicants are informed of the amount of any COL scholarships at the time of admission, although these amounts can be increased thereafter (e.g., to match or exceed scholarships offered by other law schools to which the applicants have also been admitted).

Offers of admission can be, and often are, extended to waitlisted applicants throughout the summer. Indeed, because applicants can decide to switch schools in the weeks, days, and even hours leading up to the start of the school year, a COL class is typically not finally constituted until its members are officially enrolled and participating in COL's orientation program. It is at this point that selectivity data for the class are finalized. And, once a class has enrolled, the attention of the Admissions Office almost immediately turns to the next class, for which applications will soon be received.

## **F. Admissions Review Commission**

In June 2009, in the wake of media reports revealing that applicants with sub-par academic credentials had gained admission to the University based on the support of prominent individuals, Illinois Governor Pat Quinn issued an executive order creating the Admissions Review Commission ("ARC"). The seven-member ARC was chaired by retired federal judge Abner Mikva and charged with, among other things, reviewing admissions policies and practices at the University and making recommendations to improve the fairness and transparency of the admissions process.

### **1. Forced "Special Interest" Admissions at COL**

The ARC covered undergraduate admissions at the Urbana-Champaign campus and admissions at certain graduate professional schools, including COL. (COL referred to applicants in whom prominent individuals had expressed interest as "special interest" or "SI" applicants.<sup>14</sup>) With respect to COL, the ARC discovered and reviewed instances in which persons outside COL caused COL to admit sub-standard applicants over strong objections voiced by Pless and then-Dean Heidi Hurd. In an April 27, 2006 email to Hurd, Pless described the negative consequences that would flow from a particular forced admission:

I can't state strongly enough the negative impact this will have on the profile of the incoming class. [The applicant's LSAT score and GPA] . . . place[] [the applicant] well below both of our 25th percentiles in the incoming class (162 and 3.15). With a class of 184 students, a single student can have a major impact on the profile. Because we are being forced to admit [this applicant] I will have to admit at least 2 additional students to ensure there is no negative impact on the profile, and I can't say for certain that even that will be enough. Since we are so late in the process it will be unlikely that I will be able to find any single candidate that would have both the LSAT and GPA to counteract [this applicant's] numbers. By admitting [this applicant] we are putting in jeopardy the goal of increasing our median GPA to a 3.5.

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<sup>14</sup> In connection with the work of the ARC, COL revealed that it had 24 SI applicants for the Classes of 2006 through 2009. Duff & Phelps has confirmed that no changes were made to the LSAT or GPA data of any of these 24 students.

## 2. Pless's ARC Testimony

Pless testified before the ARC on July 6, 2009. App. 9. In his testimony, Pless described the improvements that COL had achieved in the academic credentials of its first-year students (“1Ls”) over the preceding three years:

[The Class of 2006's] median LSAT was a 162 and around a 3.4 [median] GPA. . . . [T]hose numbers have steadily increased over time . . . so the [C]lass of 2008, that was the first class where we moved the LSAT . . . three LSAT points . . . from 163 to a 166, and that was the first class that . . . was solely my class, that I admitted, and . . . the goal was to shrink the size of the class to improve . . . the median.

App. 9 at 147.

In response to questioning from Chairman Mikva, Pless predicted that the upcoming class (Class of 2012) would continue this upward trend and touched on related topics, including his role in the improved credentials and their effect on COL's USNWR ranking:

- MR. MIKVA: For the fall of 2009. How do their LSATs and GPAs compare to previous years?
- MR. PLESS: They're . . . going to be the best class that we've ever had.
- MR. MIKVA: Really?
- MR. PLESS: Yes, sir.
- MR. MIKVA: And . . . what are the factors that account for that improvement? Better recruiting?
- MR. PLESS: Well . . . I think it's a lot of factors. . . . [B]etter recruiting. . . . I think hopefully I get better at my job every year . . . that I do it. . . . [W]e've greatly increased . . . our scholarship budget over years . . . and that has a huge impact in who we're able to admit, and who we're able to . . . have accept our offers. . . . [W]e have done a good job over the past five or six years in hiring some of the top professors from anywhere in the country, and that reputational bounce that we get from that has helped us.
- MR. MIKVA: Even though the rating in [USNWR] has not gone up?

MR. PLESS: This year we moved to 23rd . . . [s]o we did . . . move up, and I think that . . . certainly is a factor. I don't want to say that [USNWR] is an accurate reflection of the quality of a law school . . . but students look at that.

App. 9 at 148-49.

As shown below, Duff & Phelps's forensic analysis indicates that, prior to his ARC testimony, Pless had increased the LSAT scores of two students in the Class of 2011, and that within a few months after his testimony, Pless increased the LSAT score of one student and the GPAs of 12 students in the Class of 2012. These changes served as the basis for COL's reporting to the ABA and USNWR of inflated median LSAT scores (Classes of 2011 and 2012) and an inflated median GPA (Class of 2012).

### **3. Smith's ARC Testimony**

Smith also testified before the ARC. App. 10. He gave his testimony on July 8, 2009, approximately five months after he assumed the deanship.

Smith testified that he had "a great amount of faith in Dean Pless," and voiced his displeasure over forced, SI admissions: "If I felt that I was put in a position to choose between the University Code of Conduct and my integrity in a decision I did not wish to follow, I'd tender my resignation." Smith elaborated: "I would rather tender my resignation from the deanship and return to teach students than do something that I thought was unethical or for that matter admit[] students that I thought were under-qualified." App. 10 at 166, 172, 173.

Smith also testified that he had instructed Pless and others, in no uncertain terms, to cease affording any special consideration to applicants in accordance with his (Smith's) personal view on the subject: "I have no interest in special anything; special interest, special admit, special categories, special consideration. My view is that every candidate needs to be treated equally and equally well. I've also told [Pless and his admissions staff] . . . that we will not be operating in this manner. Crystal clear." App. 10 at 162-63.

Smith concluded his testimony as follows:

[L]ong before these events broke, I had the chance to speak about my vision[] as Dean before my faculty, before my students and before my wife and parents. And what I said in that time and I don't waiver from it, is that this college will be led with integrity, with honest[y], with respect, and with . . . essentially those goals paramount. And I make that pledge to you, I make that pledge to . . . Illinois and I made that pledge consist[ent] with the pledge I made in front of my parents.

App. 10 at 214-15.

#### **4. Relevant ARC Findings and Recommendations**

On August 6, 2009, the ARC issued its Report and Recommendations (“ARC Report”). App. 11. The ARC Report described how and why COL, in 2003 or 2004, “moved away from faculty involvement in admissions decisions and toward a system that focused all admissions review and decision-making authority on the Admissions Dean.” App. 11 at 25. The ARC Report observed that this concentration of authority facilitated COL’s effort to improve its USNWR ranking and allowed COL to make admissions decisions more quickly:

The primary reason for this change appears to be [COL’s] effort to increase its national rankings, particularly its ranking with [USNWR]. When Hurd was appointed COL Dean in the fall of 2002, she was charged with reversing the decline in COL’s national rankings. . . . Then director of admissions, and now Admissions Dean, Pless, explained that, by centralizing admissions decision-making in a single person, he could better shape the incoming class to improve its academic profile and, accordingly, [COL’s] ranking. A desire to speed admissions decisions also led to the change away from faculty involvement in decision-making.

App. 11 at 25.

In addition, the ARC Report acknowledged “the potential benefits of charging a single decision-maker with admissions decisions, particularly in terms of monitoring the academic profile of the incoming class,” and noted favorably that Pless had “resisted efforts . . . to impose admissions decisions on [COL]” or to “reverse[] admissions decisions that Pless and his admissions staff had already made,” by “forthrightly step[ping] forward with pleas for assistance.” App. 11 at 25, 32. The ARC Report also credited Smith for having steered COL away from further SI admissions:

Since becoming Dean, Smith has not received calls from . . . anyone . . . regarding an applicant to COL. As Smith has unequivocally declared, under his watch, an inquiry will only be answered if it is made by the applicant him/herself. . . . This policy is evidently working: there are no SI admissions for the recently admitted COL Class of 2010.

App. 11 at 32.

Nevertheless, the ARC Report concluded that COL’s “single decision-maker approach left the admissions process at COL vulnerable to outside pressures.” App. 11 at 25. On the premise that it is easier to override the intent of a single person, as opposed to the collective intent of multiple persons, and with a nod to the committee-based admissions process of the University’s College of Medicine, the ARC recommended that COL “institute a more robust” and “inclusive” admissions process (i.e., one involving additional persons) to protect against “outside influence.” App. 11 at 26.

As the ARC explained, “had a more comprehensive and inclusive system been in place at COL, Pless and other admission professionals at COL would have been more free to do their jobs.” App. 11 at 26. In addition, with respect to all University admissions offices, the ARC recommended the creation of a “firewall” around admissions—that is, policies and procedures to prevent undue influence (in particular, support from prominent persons) from entering the decision-making process with respect to any individual applicants. App. 11 at 43.

## **5. University and COL Response to ARC Report**

In the aftermath of the ARC Report, the University convened an admissions task force to consider the ARC’s recommendations, and the various campuses adopted certain reforms, including the UIUC Ethical Code. App. 6. In accordance with the ARC’s recommendation, subsequently endorsed by the University’s admissions task force, COL implemented an admissions “firewall,” which prohibited even COL’s Dean from attempting to influence admissions decisions with respect to particular COL applicants. Despite the ARC’s recommendation, however, COL did not alter its admissions decision-making process to make it more “inclusive.”

### **G. 2011 ABA Site Visit**

The ABA conducts periodic site visits to ABA-accredited law schools. In connection with such a visit, a school is required to engage in a “Self Study” and to provide the ABA with the results thereof in advance of the visit.

The ABA conducted a site visit of COL in 2004, and then again in March 2011 (“2011 Site Visit”). By the time of the 2011 Site Visit, COL had provided the ABA with a related Self Study that COL had completed in late 2010 (“2010 Self Study,” App. 8), as well as a completed “Site Evaluation Questionnaire.” App. 12. These submissions described, among other things, COL’s administrative functions and offices, including the Admissions Office. Pless was responsible for supplying selectivity data and other admissions-related information for inclusion in portions of the 2010 Self Study.

#### **1. COL ABA Site Evaluation Questionnaire**

In the Site Evaluation Questionnaire, COL described the information upon which it relies in individual admissions decisions (Question 4), as follows:

[COL] seeks to admit students of outstanding ability who will bring a broad range of backgrounds, experiences, and perspectives to the classroom, as well as to the legal profession. In evaluating applications, [COL] places substantial weight on the undergraduate grade point average (GPA) and the LSAT score. [COL] does not have a minimum LSAT score requirement. [COL] also considers a range of other factors, including, without limitation, the strength of the undergraduate or graduate institution, strength of the undergraduate or graduate program, employment experience, language ability, the applicant’s personal statement, letters of recommendation, awards, publications, leadership ability, unusual life

experiences, commitment to public service, and career goals. [COL] only admits applicants who appear capable of successfully completing the J.D. program and being admitted to the bar.

App. 12 at 51.

With respect to “how the law school publishes basic consumer information” (Question 15), COL stated as follows:

[COL] places information relating to admissions data, tuition, fees, costs of living, financial aid, refunds, employment statistics, graduation rates, faculty, administration, curricular offerings, library resources, physical facility, placement rates, bar passage rate, and academic calendar in various venues, including on its website, in its main recruiting/marketing piece ([COL] “Viewbook”), and through submissions to the ABA published in the annual *ABA-LSAC Official Guide to ABA-Approved Law Schools*.

App. 12 at 56.

And with respect to “how the law school meets its obligation to report basic consumer information in a fair and accurate manner reflective of actual practice” (Question 16), COL represented as follows:

[COL] carefully collects, assesses, and updates items falling within Interpretation 509-1, including, without limitation, admissions data, the financial burden of attending [COL], placement rates, and bar passage. [COL’s] website and print publications are checked and updated periodically to reflect current data.

App. 12 at 57.

## **2. COL 2010 Self Study**

In the 2010 Self Study, COL described its use of GPAs and LSAT scores in its admissions process, and set forth data for the Classes of 2011 through 2013, as follows:

COL does not have a minimum GPA or LSAT score requirement. For applicants who have taken the LSAT more than once, the Admissions Committee considers the highest score. The GPA and LSAT numbers for the three most recent entering classes are included in the following table.

**TABLE A.1**

**GPA and LSAT Score Data for Students in Last Three Entering Classes**

Entering Class	75 <sup>th</sup> Percentile GPA	Median GPA	25 <sup>th</sup> Percentile GPA	75 <sup>th</sup> Percentile LSAT Score	Median LSAT Score	25 <sup>th</sup> Percentile LSAT Score
Fall 2010	3.9	3.8	3.3	168	167	163
Fall 2009	3.9	3.8	3.2	167	166	160
Fall 2008	3.8	3.6	3.2	167	166	160

The fall 2010 entering class at COL held a median LSAT score of 167, five points above the entering [C]lass of 2003-2004, the time of our 2003 Self Study. Moreover, this LSAT score has increased, even as our class size has grown from 173 in 2007-2008 to 228 in 2009-2010. In addition, during this time, COL has succeeded in raising the median undergraduate GPA to a 3.8, another large increase from 3.61 in 2003-2004. Clearly, COL is attracting and matriculating greater numbers of high-achieving students due to expanded efforts in both recruiting and in providing scholarship support.

App. 8 at 85.

The 2010 Self Study also reported “a significant increase in the application volume over the past three years.” App. 8 at 84. Specifically, COL reported the following acceptance rate data for the Classes of 2011 through 2013:

- Class of 2011 Applicants: 3,299
- Class of 2011 Admitted: 947
- Class of 2012 Applicants: 3,516
- Class of 2012 Admitted: 1,031
- Class of 2013 Applicants: 4,833
- Class of 2013 Admitted: 984

App. 8 at 85-86.

In addition, the 2010 Self Study set forth the results of various internal surveys that COL had conducted. Certain of the surveys were designed to measure the level of satisfaction of students, faculty, and alumni with the performance of COL in specified administrative areas, including admissions. In each such survey, the respondents gave the Admissions Office the highest marks of all such areas, and certain student respondents singled Pless out for praise:

[Students] noted that the willingness of the Admissions Dean to answer questions from students in online forums focusing on law admissions (top-law-schools.com) had impressed them. In the words of one respondent, “[Dean] Pless is almost certainly one of the best Admissions Deans in the country.” As another noted, “[Dean] Pless is one of the school’s greatest assets.”

App. 8 at 139.

The 2010 Self Study also made mention of the “substantial progress” that COL had made toward achieving the median LSAT and GPA goals established through a strategic plan that COL had adopted in 2006 (“2006 Strategic Plan”): “The [C]lass of [2012] achieved the median GPA goal [of 3.7], and the LSAT goal [of 168] is well within our grasp, given that the median LSAT for the Class of 2013 was 167.” App. 8 at 89. As to the Admissions Office, the 2010 Self Study concluded—

The . . . survey responses and statistical responses support a conclusion that the Admissions Office is well-run, responsive and well-attuned to the needs and wishes of the modern law school applicant. In addition, [COL], through the extraordinary efforts of the Admissions Office, has largely met its goals regarding the objective qualifications of the entering class.

App. 8 at 89.

### **3. ABA Site Visit Report**

The ABA conducted its COL site visit from March 13-16, 2011. The site visit team included representatives of the Association of American Law Schools and was comprised primarily of professors and administrators from other law schools. The team participated in numerous meetings with University officials and COL faculty, staff (including Pless), and students. The ABA issued its report on the site visit (“ABA Site Visit Report”) on August 24, 2011, two days before the Ethics Office received the information that prompted this investigation. App. 13.

The ABA Site Visit Report described the 2010 Self Study as “a candid and rigorous self-assessment in many, if not most ways, with one very significant reservation”—namely, “[t]he Self Study was largely silent concerning the [2009] student-admissions scandal at the University of Illinois . . . .” As the ABA Site Visit Report explained, “because [COL] was such a visible part of the focus of the inquiry on the part of the [ARC], [COL] should have anticipated that the site visit team would be compelled to initiate conversations aimed at determining whether operations of [COL] were compromised by the controversy.” App. 13 at 7-8.

The ABA Site Visit Report noted that “[c]oncerns about governance were raised in a number of faculty interviews,” but that “[a] majority of the faculty reported satisfaction with [COL]’s governance.” A few faculty members opined that “the balance of power was too much with the Dean and too little with the faculty.” App. 13 at 30. With respect to admissions, the ABA Site Visit Report observed:

[S]ome faculty members reported less involvement on the Admissions Committee but said that Admissions Office professionals were selecting students that were appropriate given the faculty's policy on what it wanted to see in admitted students. One faculty member even said that the Admissions Office's selections were better than those made by the faculty in prior years.

App. 13 at 30.

The ABA Site Visit Report recited the historical selectivity data that COL had provided in its 2010 Self Study, and recognized COL's progress toward achieving the five-year median goals laid out in the 2006 Strategic Plan: "Over the past few years, the admission process has directly correlated to its goals of increasing its applicant profile and diversity." App. 13 at 39.

#### IV. MEDIAN LSATs AND GPAs: GOALS AND REPORTING

##### A. Institutional Emphasis on USNWR Ranking

COL, like other top law schools in the U.S., has long sought to improve its position among peer institutions. While various organizations rank law schools, USNWR's annual ranking is easily the most influential within the industry generally and strongly influenced COL in various policy and operational respects over the entire 10-year period covered by this investigation.

This influence is nowhere more evident than in the attention that COL devoted to the median LSAT scores and median GPAs of its student body. The USNWR ranking system is predicated on a total of 12 quantitative and qualitative factors that are each ascribed a numeric value. When combined, these values result in an "overall score" that is used to determine the ranking for the law school involved. Together, the median LSAT score and the median GPA of a school's most recently enrolled class account for 22.5 percent of that school's overall score for that year's USNWR ranking. App. 14.

For officials at COL (and doubtless any other law school intent on enhancing its national stature), the prominence of USNWR's ranking in the mindset of key constituencies and the weight that USNWR ascribes to these academic credentials were not just a reality to be reckoned with, but also an opportunity on which to capitalize. In comparison to other factors included in USNWR's ranking methodology, a law school generally has more ability to affect median GPAs and median LSAT scores, and thereby potentially improve its USNWR ranking.

In a November 20, 2008 letter to the Urbana-Champaign Provost and Vice Chancellor for Academic Affairs, Smith, then-Associate Dean for Academic Affairs, expounded on this point:

It is a source of frustration to any dean who seeks to elevate his or her law school's position in the *U.S. News* rankings that the most important aspect of a law school's ranking derives from the school's reputation among legal academics (25%) and legal professionals (15%). Empirical research suggests that these reputational scores are quite "sticky," i.e., they tend to follow closely a school's ranking in previous years and, as such, are difficult for a school to change appreciably.

By contrast, it is generally felt that a law school's performance in the area of "student selectivity" – the median LSAT score of the law school's incoming class (which accounts for 12.5% of the *U.S. News* measure), the median GPA of the school's incoming class (10% of the *U.S. News* measure), and the percentage of applicants who are admitted to the school (2.5% of the *U.S. News* measure) – can be improved with substantial and strategic commitments of resources.<sup>15</sup>

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<sup>15</sup> Smith added that "[t]he most effective and time-tested approach to improving a school's student-related numbers across-the-board is to reduce class size," because such reductions "improve student credentials, a school's

Pless made the same point in an interview that he gave to the website Top-Law-Schools.com (<http://www.top-law-schools.com/paul-pless-interview.html>), which describes itself as “a free and valuable resource to assist students applying to law schools,” and on which Pless maintained a blog (<http://www.top-law-schools.com/forums/viewtopic.php?f=11&t=62652>).<sup>16</sup> Pless explained: “25% of the ranking of the school is based on admissions numbers. The admission profile is something that the school has the most direct control over, so the medians are important.” App. 15.

COL made a number of strategic commitments in an effort to maximize its control over median LSAT scores and median GPAs. Indeed, boosting these academic credentials of its student body was a centerpiece of COL’s overall strategic effort and facilitated other, individual strategic initiatives. In addition to quickly elevating the school’s USNWR ranking, a highly credentialed student body, it was hoped, would trigger a self-perpetuating cycle that would lead to ever increasing and more sustainable levels of prestige and still higher rankings over time—impressive credentials would entice more legal employers; make it easier to raise tuition, secure donations, and recruit and retain faculty; and enhance COL’s marketing efforts and overall reputation, all of which would, in turn, help attract and land even stronger students and further bolster these other initiatives. *See, e.g.*, Apps. 16 at 6-7, 12; 17 at 15.

## **B. Strategies for Improving Median LSAT Scores and GPAs**

### **1. Annual Goal Setting**

Each fall, COL established specific median LSAT and GPA goals for the class that would enroll the following August. The COL Dean and Admissions Dean set these goals with input from other COL officials and in light of the medians that had been achieved with the most recently enrolled class, a projection of the size of the upcoming class, and budgetary and other considerations. Pless thereafter monitored progress on the goals and regularly updated the Dean with this and other admissions-related information.

### **2. Fine Tuning and Optimizing LSAT and Median Combinations**

From time to time, Pless and others at COL discussed the relative merits of different combinations of LSAT and GPA medians. For instance, in emails in late October and early November 2008, Pless, at the suggestion of then-Interim COL Dean Ralph Brubaker, sought out the opinion of COL Professor Robert Lawless as to whether, from a USNWR ranking

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(continued...)

student-faculty ratio, a school’s bar passage numbers, and a school’s employment rates – all of which factor importantly in the *U.S. News* rankings.”

<sup>16</sup> COL mentioned Pless’s “participat[ion] in the online forum Top-Law-Schools ([www.top-law-schools.com](http://www.top-law-schools.com))” in the 2010 Self Study: “He has answered questions from law school applicants about the application process and provided specific information about programs at COL. The first post on January 23, 2009 generated over 1,800 replies and comments and nearly 59,000 page views.” App. 8, at 88.

perspective, a 165/3.8 LSAT/GPA combination was preferable to a 167/3.6 combination. *See, e.g.,* App. 18. (Previously, while on the faculty of another law school, Lawless had developed a methodology for use in estimating how changes to certain USNWR ranking factors (e.g., increases in median LSAT or median GPA) would affect a law school's USNWR ranking; after joining COL faculty, Lawless shared his methodology with COL personnel, who referred to the methodology as the "Lawless Calculator.")

Pless observed that "[f]rom the calculator it looks like a 165/3.8 is far superior to a 167/3.6," and asked Lawless, "How confident are you in that?" Lawless stressed that he did not think it was "that simple," but added that, with certain caveats, he was "pretty confident in that assessment," assuming "all we're talking about is USNWR rankings." Lawless went on to explain—

The reasons I am confident have to do with the way the USNWR calculations are done. First, the rankings calculate the LSAT based on the percentile the LSAT score represents. Second, the rankings are based on Z scores (which is a measure in units of "standard deviation-ness," i.e., a result that is one-and-a-half standard deviations above the mean gets a Z score of 1.5). Even if we did not have the spreadsheet [containing the relevant data of law schools ranked by USNWR], I think we would all know that moving down from a 166 to 165 LSAT moves us down fewer "units of standard deviation" than moving from a 3.6 to a 3.8 GPA moves us up on "units of standard deviation." The intuition here is that we will leap over more schools from 3.6 to 3.8 than we will move down between 166 and 165. Does that make sense[?]

Lawless also reflected on the downside of placing too much emphasis on applicants' GPAs, without adequate consideration to the academic rigor of the institutions at which those GPAs were attained:

Consider where we are going to be getting our 3.8's. We all have talked about the concerns with our high LSAT and low GPA students (although I have some personal doubts about whether, empirically, there are enough to make that big of a difference). If we go with 3.8 GPAs, are we going with students who were just better grade managers? There is also the problem of school comparability. I would want a 3.5 in engineering from here [more] than a 3.9 in theater design from the Southeast Dakota State School of Air Conditioner Repair. Maybe the answer is that we are no worse off than our current focus on the 166 LSAT, and we might as well pick the strategy that maximizes USNWR. Maybe it's the same, and it's just cheaper to get the high GPA students. Nonetheless I copied Ralph [Brubaker] and Bruce [Smith] because I think the two or three of you should have this conversation.

Brubaker, who along with Smith, was copied on this email exchange, responded to the exchange, noting that it was "[v]ery helpful."

### 3. Competition with Other Law Schools

Pless and others at COL were also mindful of the LSAT and GPA goals that other law schools—particularly, those with which COL regularly competed for applicants—appeared to have set, and would consider such information in setting and adjusting COL’s own goals. For instance, in a January 27, 2009 email to Pless (App. 19), Smith, who at the time was just about to assume the deanship, asked Pless if consideration should be given to the recruiting efforts of other schools in choosing between 165/3.8 and 166/3.7 as an LSAT/GPA-combination goal for COL:

In thinking about 165/3.8 or 166/3.7, do the efforts of our competitors play a role? For example, if WashU is seeking to hit 167, is that likely to leave more 166s available or have no effect (either because WashU would need to strive for 167 but “insure” at 166, or because WashU is only one school among many potential competitors)?

I just wasn’t sure whether such decisions were made with competitive “intelligence” in mind.

Pless responded:

I think what our competitors are doing has a huge impact on us. Even if WashU still admits 166’s they may be giving them less money making it easier for us. The problem is 166 is a crowded field (Minn.[,] Texas, USC, GW, BU, BC, Notre Dame . . . .) We are starting to get deep enough into the season that I can get some data on what these schools are doing. (Unofficial data but it has been reliable in the past) I will work on it and try to get you better info.

I have attached the Lawless Calculator. [Lawless] can obviously explain it better, but he believes it to be a good predictor, and it is probably best at doing what we are asking of it; determining which metric has the biggest potential for helping the ranking.<sup>17</sup>

Similarly, in a December 9, 2009 email to Pless (copied to Smith) (App. 23), a COL professor drew Pless’s attention to the University of “Indiana Bloomington’s rise in the rankings.” That professor observed—

[I]t made me remember something that one of my former colleagues . . . has written about. In particular, he did an analysis of the US News rankings, and found that, while GPA and LSAT scores purport to play relatively equal roles in ranking determinations, there are larger differences bet[we]en schools on the GPA

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<sup>17</sup> See Apps. 20, 21, and 22 for other examples of instances in which COL officials reviewed and compared the USNWR rankings of other law schools and/or the performance of other schools with respect to particular USNWR ranking factors.

measure. What this means is that differences in GPA end up having a larger overall impact, even if this is not obvious from the relative weightings.

I'm not sure if this is true so you might want to verify it. But I did notice that Indiana seems to have pushed up its GPA at some expense to its LSAT scores. So for example, their GPA lists at 3.39-3.85, which is higher than ours (3.2-3.8). But our LSAT (which is 160-167) is higher than theirs (156-165). It seems to me that we're probably higher than them on just about every other measure, so this one variable may have played quite a large role in bringing them up to our ranking.

In an email response to the professor (copied to Smith), Pless agreed with the professor's assessment: "I think this is absolutely a factor. Our median GPA for the Class of 2012 was a 3.8. Come this April we will have Indiana beat on both metrics and hopefully break the tie. (USNWR always publishes the 25-75 split, but for their rankings calculation use[s] the median number.)"

#### **4. Implementing New Admissions Programs**

##### ***a. iLEAP***

In the 2010 Self Study, COL described an experimental admissions program—iLEAP—that it had launched, with ABA approval, in the fall of 2008:

The program is designed to help [COL] attract the very best undergraduates from [Urbana-Champaign]—students with excellent records who might otherwise attend the nation's most highly ranked law schools. The program invites [Urbana-Champaign] undergraduates to apply to [COL] in the early spring of their junior year, before they have taken the LSAT. If offered admission, they need not take the LSAT and can, at that early date, solidify their law school plans. Applicants must pledge, however, to attend [COL] and not apply to other law schools. The program thus allows [COL] to recruit and retain top-quality applicants, as well as manage admissions so as to achieve desired enrollments with greater accuracy.

App. 8 at 86.

Pless was instrumental in the development and implementation of iLEAP. In an October 28, 2008 email, Pless was asked by an acquaintance: "U of I doesn't require LSATs anymore? Really?" App. 24. Pless's response described one of the key objectives of iLEAP—securing the enrollment of students with high undergraduate GPAs and the resulting benefit from a USNWR ranking perspective:

This is old news. I am a maverick and a reformer so I started a new program for U of I undergrads to apply in their junior year and we don't require the LSAT. We have additional essays and an interview instead. That way, I can trap about 20 of the little bastards with high GPA's that count and no LSAT score to count

against my median. It is quite ingenious. And I thought of it before Michigan, they just released it earlier. I was hoping to fly under the radar.

The strategic aspect of iLEAP was not lost on Pless's acquaintance, nor was Pless's ingenuity: "That is clever. Jack up the GPA without risking the low LSAT (so long as their GPAs don't crash after they're accepted—you might want to keep the offer GPA-conditional in some way). But nice gaming the system; I'm so proud." Pless replied: "That will be a condition. Plus, if I don't make them give me their final transcript until after they start, I report the GPA that was on their application."<sup>18</sup> To this, the acquaintance remarked: "nice."

***b. Merit Scholarships and the "Illinois Guarantee"***

Over the period covered by this investigation, COL also significantly increased its scholarship budget, mainly in the form of tuition remission, and used these funds to recruit highly credentialed applicants. Scholarship recipients were not obligated to repay their awards, and the amounts of the awards generally corresponded to the recipients' academic credentials—i.e., higher credentialed students generally received larger awards. The ABA Site Visit Report recounted the increase in COL's scholarship budget between 2002 and 2010:

[COL] has increased the amount of institutional scholarships, from just over \$1,000,000 per year in 2002 to a total of \$8,435,838 for the 2009-10 academic year that was distributed among 529 students, with a median award amount of \$12,500. Of that amount, \$8,223,815 was in the form of tuition remission. [COL] uses tuition remission as a direct means of helping to mitigate tuition costs, and it appears that many, although not all students at [COL] have received the benefit of the remission. These awards range from \$2500 to full tuition and are guaranteed for all three years [through a COL program referred to as the "Illinois Guarantee."] The Assistant Dean stated that only 7 students in the [Class of 2013] did not receive scholarships or tuition remission, and the goal is to provide scholarships or tuition remission in some amount for each student in the [Class of 2014].

App. 13 at 44-45.

In 2011, COL did in fact award a scholarship (or tuition remission) to every single member of the Class of 2014, even those who were admitted late off the waitlist with GPAs and/or LSAT scores below COL's goals. The tuition remission for this class totaled more than \$3.6 million, and individual remissions ranged from \$5,000 per year to full tuition (approximately \$42,000 per year). And under the Illinois Guarantee program, these students are assured that the cost of their second and third years of law school is capped at the first-year cost; thus, if tuition is raised in their second and/or third year, the amount of their tuition remissions will be increased in the same amounts.

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<sup>18</sup> During an interview with the investigative team, Pless denied that he computed the GPAs of iLEAP students for ABA reporting purposes based on their grades as set forth in their applications, and claimed, instead, that he relied on their final, post-graduation transcripts. The investigation found that this claim was false—that is, that Pless did not use the final transcripts of iLEAP students in computing median GPAs.

## **C. COL's Handling and Reporting of Selectivity Data**

### **1. Admissions Office Spreadsheets Compiling LSAC Data**

As noted above, applicant data was accessible to Admissions Office personnel through the CAS online database, administered by LSAC. The Admissions Office's administrative assistants regularly, and at times on a daily basis, downloaded certain data from the database relating to COL applicants (e.g., name, LSAT score, GPA, undergraduate institution). These data were downloaded in a spreadsheet format (referred to as "Paul's Daily Report") and emailed to Pless. Pless used this report to track the status of applicants, to separate and separately track certain categories of applicants, and to make calculations as to aggregate admissions data (e.g., median LSAT scores and GPAs for various categories of applicants).

The CAS database was updated on an ongoing basis with additional information relating to applicants (e.g., new LSAT test scores and grades). Pless was able to stay current with respect to updated information relating to COL applicants because each new version of Paul's Daily Report would reflect updates for such applicants since the last report. Pless used a Microsoft Excel file containing multiple spreadsheets to organize and analyze the data in Paul's Daily Report. Mathematical formulas programmed into the file automatically computed then-current statistical information relating to the applicant pool, including (i) the median, 25<sup>th</sup> percentile, and 75<sup>th</sup> percentile LSAT and GPA figures; and (ii) the precise number of applicants at specified LSAT and GPA levels. These computations were set forth in a summary document referred to as a Dashboard, which Pless at times provided to the COL Dean as a means of keeping the Dean apprised of the status of the upcoming class.

### **2. Computing of Median LSAT Scores and GPA**

After a COL class had officially matriculated, Pless compiled and computed the class's selectivity data—that is, its median LSAT score and median GPA, as well as the information that determined the acceptance rate for the class (i.e., the number of applicants and the number of offers of admission extended to those applicants). In so doing, Pless relied principally on data that were originally derived from the CAS database and then included in spreadsheets that he maintained. As described below, the results of this investigation support the conclusion that Pless manipulated data within these spreadsheets by changing individual student data (e.g., LSAT scores and GPAs) in an effort to establish underlying support for inflated median, 25<sup>th</sup> percentile, and 75<sup>th</sup> percentile values.

### **3. Reporting and Dissemination of Selectivity Data**

After computing selectivity data, Pless caused these data to be included in annual submissions to the ABA, USNWR, and other third parties (e.g., NALP). COL's Academic Administration Dean has been responsible for collecting the information to be included in COL's submissions to the ABA (in the form of a response to the annual ABA Questionnaire) and USNWR. As part of this process, various COL officials with responsibilities over certain functions and offices (e.g., Pless with respect to the Admissions Office) have annually provided

the Academic Administration Dean with statistical information to be included in these submissions.

The Academic Administration Dean has not had access to the data underlying the statistics for which she was not personally responsible. As such, she did not seek to verify the accuracy of these statistics against the underlying data. The Academic Administration Dean did, however, assess statistics presented with those reported by COL in prior years, and in light of her own institutional knowledge, in an effort to discover any apparent irregularities or anomalies. If she determined further inquiry was warranted, the Academic Administration Dean then sought clarification and/or additional information from the COL official who had supplied the information in question and typically required that official to represent in writing that he or she affirmed the accuracy of the represented data.

By this process, the separate components of an ABA Questionnaire or USNWR submission were finalized, compiled, and readied for transmission. ABA Questionnaires contained a signed “Dean’s Signature Page,” memorializing the Dean’s “certif[ication] that the information provided . . . [is] a complete and accurate representation of this law school.” App. 69 (COL Dean’s Signature Pages for 2005 through 2010).

In addition, Pless reported on selectivity data and provided other admissions-related information in presentations to COL faculty and while recruiting applicants and prospective applicants to COL.

For its part, COL routinely included selectivity data in external communications targeted at particular constituencies and in general marketing materials (e.g., newsletters, COL website, COL Viewbook).

## V. ANALYSIS AND FINDINGS RELATED TO COL SELECTIVITY DATA

### A. Selectivity Data Inaccuracies and Methodology of Analysis

#### 1. Inaccurate LSAT and GPA Data

Duff & Phelps analyzed LSAT and GPA data for COL Classes of 2005 through 2014 in an effort to assess the accuracy of the statistics that COL reported and/or publicly disseminated over this period. Duff & Phelps obtained the LSAC data for each student directly from LSAC's CAS database. Duff & Phelps confirmed the individual members of each class by matching those students to the list of enrolled students provided by the COL's Academic Administration Dean.

The LSAC/CAS data include each student's LSAT scores. For students who took the LSAT more than once, the highest score—the one that counts toward the determination of a class's median—is apparent. LSAC “normalizes” GPAs; in recognition of the fact that undergraduate institutions employ different grading systems, and in an effort to enable an “apples-to-apples” comparison of GPAs across these different systems, LSAC converts each law school applicant's GPA to a “normalized” GPA on a 4.0 scale.

After using LSAC data to compute the median, 25<sup>th</sup> percentile and 75<sup>th</sup> percentile (“quartile”) LSAT scores and GPAs of each class, Duff & Phelps next reviewed the corresponding LSAT and GPA statistics that COL submitted to the ABA and USNWR. This analysis found the following types of inconsistencies:

- Discrepancies in reported LSAT quartiles that misreported the actual LSAT quartiles but were *not* tied to changes in individual student scores;
- Discrepancies in reported LSAT medians and quartiles that were tied to incorrect changes to the underlying LSAT scores of individual students;
- Discrepancies in GPA quartiles that misreported the actual GPA quartiles but were *not* tied to changes in individual student GPAs; and
- Discrepancies in reported GPA quartiles that were tied to incorrect changes in the underlying GPAs of individual students.

For most classes prior to the Class of 2011, there were no discrepancies between LSAC/CAS data, on the one hand, and LSAT and GPA statistics reported by COL, on the other hand. Where such discrepancies exist, they involve the misreporting of quartiles—specifically, one-point increases in reported LSAT scores or 0.01 increases in reported GPAs and, in one case, a 0.01 decrease in the reported median GPA.

For the Classes of 2011 through 2014, Duff & Phelps identified discrepancies between LSAC/CAS data and COL-reported statistics that are attributable to unjustified and seemingly intentional changes to the LSAT scores and GPAs of individual students. At first, the changes were few, very subtle, and limited to LSAT scores (i.e., two small changes for the Class of 2011);

over the next three years, the changes grew substantially in number and magnitude, such that, by the Class of 2014, the vast majority of students had their LSAT scores or GPAs, or both, changed. It appears that these changes were deliberately and strategically made in order to increase median and quartile values beyond those provided for by LSAC/CAS data.

## 2. Inaccurate Acceptance Rate Data

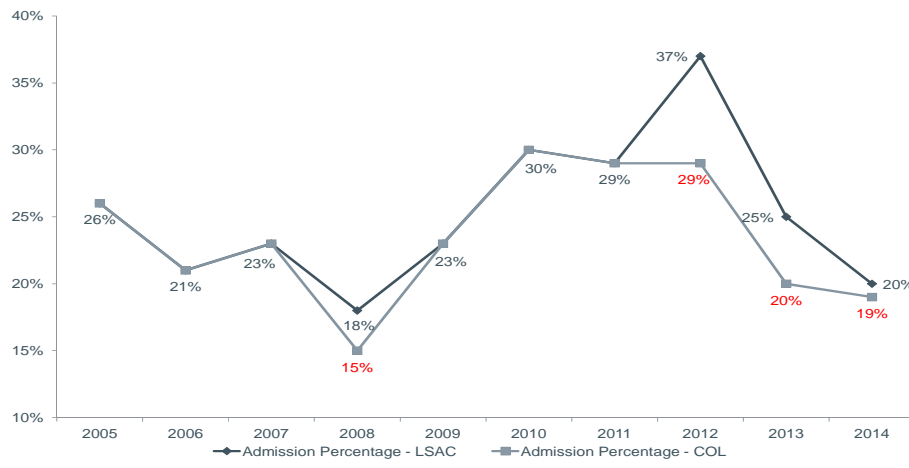
Duff & Phelps also analyzed the number of applications submitted to, and the number of offers of admission made by, COL for the Classes of 2005 through 2014, in an effort to assess the accuracy of the acceptance rate data that COL reported and/or publicly disseminated over this period. Duff & Phelps first obtained these data from LSAC and then compared the data to the information that COL had reported and/or disseminated. Duff & Phelps then calculated the acceptance rate by dividing the number of admissions offers by the number of applications for each class.

This analysis revealed the following:

- Discrepancies in the acceptance rate data reported for the Classes of 2005 through 2007 and 2009 through 2011 that were not large enough to alter the acceptance rate percentage calculated from the data.
- Discrepancies in the acceptance rate data reported for the Classes of 2008, 2012 and 2013, and in the acceptance rate data publicly disseminated for the Class of 2014, that were large enough to improve, i.e., lower, the acceptance rate percentage calculated from the data.

The following chart illustrates the classes for which the LSAC and COL-reported acceptance rate data correspond and differ over the 10-year period reviewed:

Acceptance Rate—Classes of 2005 to 2014



**B. Year-by-Year Analysis (Classes of 2005 through 2014)**

**1. Class of 2005 (239 Students)**

**a. Median Goals**

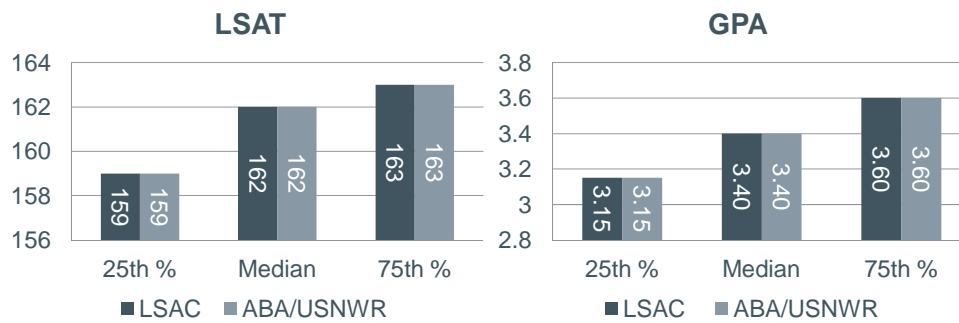
The investigation did not discover information relating specifically to whether COL set goals for the median LSAT score and/or median GPA of the Class of 2005, and, if so, what those goals were.

**b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL**

**i. LSAT and GPA**

As illustrated by the chart below, with respect to the Class of 2005, Duff & Phelps found no discrepancies between the LSAT and GPA data maintained by LSAC, on the one hand, and the LSAT and GPA data reported by COL to the ABA and USNWR, on the other hand:

**College of Law Graduating Class of 2005**



LSAT			GPA	
LSAC	ABA/USNWR		LSAC	ABA/USNWR
159	159	25 <sup>th</sup> Percentile	3.15	3.15
162	162	Median <sup>c</sup>	3.40	3.40
163	163	75 <sup>th</sup> Percentile	3.60	3.60

<sup>c</sup>Medians not reported to ABA but were reported to USNWR as shown.

**ii. Acceptance Rate Data**

With respect to the Class of 2005, Duff & Phelps found no discrepancies between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The number of applicants was consistent at 2,418, and the number of admission offers was consistent at 618.

The investigation did not discover information relating to how COL promoted Class of 2005 selectivity data. Typically, such data were included in COL marketing materials and on its website, and otherwise disseminated to prospective students, faculty and administrators, legal employers, alumni, and donors, among other individuals and entities.

**c. *USNWR Ranking***<sup>19</sup>

USNWR used COL's selectivity data for the Class of 2005 in connection with the 2004 Edition of USNWR's law school ranking, which it published in 2003. COL was ranked 25<sup>th</sup> in this edition of USNWR's ranking (tied with Washington University).

**d. *Pless's Job Performance and Pay***

During the academic year 2001-2002, Pless was a student at COL in the second year of the J.D. program and was not employed within the Admissions Office.

**2. *Class of 2006 (225 Students)***

**a. *Median Goals***

The investigation did not discover information relating specifically to whether COL set goals for the median LSAT score and/or median GPA of the Class of 2006, and, if so, what those goals were. COL's 2003 Annual Report, however, did note as follows:

Among the most promising means of improving [COL's] national ranking is by improving the incoming credentials of its student body. But raising student numbers (LSAT and GPA scores, which are heavily weighted in law school assessments) takes money. In the face of budget cuts, [COL] fears that [it] will be slowed in its plans to employ the most promising strategies for top-flight student recruitment—all of which are highly revenue-responsive[.]

App. 25 at 4.

The 2003 Annual Report listed several strategies in this regard, including improving financial aid and reducing class sizes, and “thereby ‘lifting the floor’ on the LSAT and GPA scores” of entering classes. App. 25 at 5. In a strategic planning document drafted in January 2003, the then-COL Dean reinforced this point:

Crucial to reclaiming [COL's] position within the nation's top twenty law schools is its ability to improve its admissions statistics. A number of factors are involved in assessing [COL's] admissions success. First, it will be very important

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<sup>19</sup> Selectivity data for a law school class factor into the ranking that USNWR typically publishes in the spring after the class enrolls. The year that USNWR uses to identify an edition is the year following its publication; for example, the 2012 edition is actually published in 2011.

progressively to improve the median grade point average (GPA) and the Law School Admissions Test (LSAT) scores of our entering class members.

App. 26 at 3.

**b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL**

**i. LSAT and GPA**

With respect to the Class of 2006, Duff & Phelps discovered discrepancies between the quartile GPA figures that COL reported to the ABA and USNWR, on the one hand, and the related data maintained by LSAC, on the other hand. In each instance, the figure reported by COL was 0.01 higher than the figure provided for by LSAC data. No information was discovered as to how these computations were done or whether any adjustments were made to any student data maintained by COL. These discrepancies are minimal and are not suggestive of any intent to improperly increase these figures.

The chart below sets forth Duff & Phelps’s LSAT/GPA findings with respect to this class:

**College of Law Graduating Class of 2006**

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	0	0	0	0	0
GPA Discrepancy	0	0	0	0	0

LSAT				GPA		
LSAC	COL	ABA/USNWR		LSAC	COL	ABA/USNWR
159	159	159	25 <sup>th</sup> Pctl.	3.11	3.11	3.12
162	162	162	Median <sup>d</sup>	3.37	3.37	3.37
164	164	164	75 <sup>th</sup> Pctl.	3.60	3.60	3.61

<sup>d</sup> Medians not reported to ABA but were reported to USNWR as shown.

COL promoted Class of 2006 selectivity data in the edition of the COL Viewbook relating to this class. App. 27. This edition noted that the class had a median LSAT score of 162 and a median GPA of 3.37.

**ii. Acceptance Rate Data**

With respect to the Class of 2006, Duff & Phelps found no discrepancies between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The number of applications was consistent at 2,777, and the number of admission offers was consistent at 595.

**c. USNWR Ranking**

USNWR used COL's selectivity data for the Class of 2006 in connection with the 2005 Edition of USNWR's law school ranking, which it published in 2004. COL was ranked 27<sup>th</sup> in this edition of USNWR's ranking (tied with University of North Carolina-Chapel Hill).

**d. Pless's Job Performance and Pay**

Pless graduated from COL in May 2003. In July 2003, Pless was offered and accepted the position of Assistant Director for Admissions and Financial Aid at COL. In this position, Pless reported to COL's Admissions Dean.

Pless's annual salary was set at \$38,500. (COL salaries are tied to the University's academic year, which runs from August 16 to August 15.)

**3. Class of 2007 (228 Students)**

**a. Median Goals**

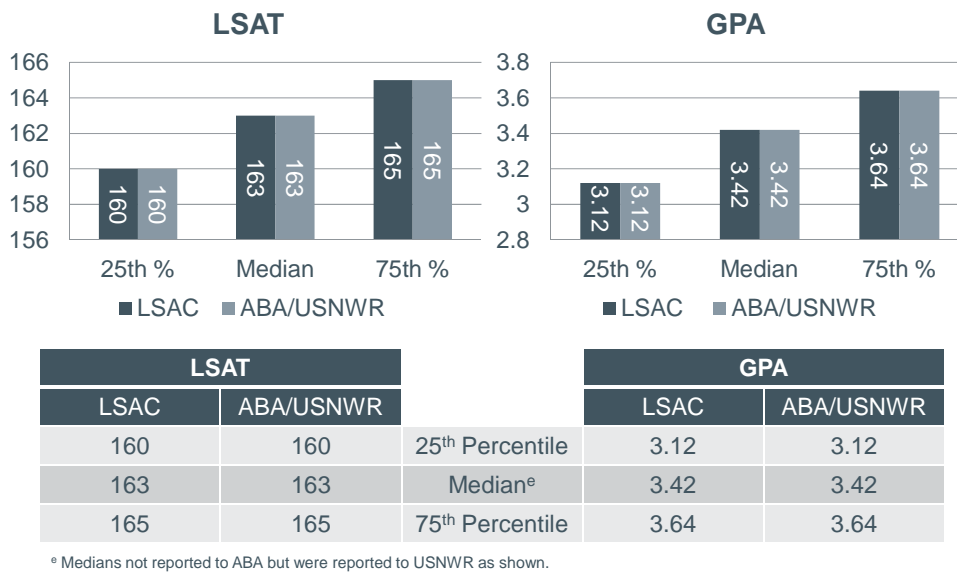
The investigation did not discover information relating specifically to whether COL set goals for the median LSAT score and/or median GPA of the Class of 2007, and, if so, what those goals were.

**b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL**

**i. LSAT and GPA**

As illustrated by the chart below, with respect to this class, Duff & Phelps found no discrepancies between the LSAT and GPA data maintained by LSAC, on the one hand, and the LSAT and GPA data reported by COL to the ABA and USNWR, on the other hand:

College of Law Graduating Class of 2007



COL promoted Class of 2007 selectivity data in a marketing document referred to as a “Reference Card” (App. 28), which listed the class’s median GPA (3.42) and its 25<sup>th</sup> percentile, median, and 75<sup>th</sup> percentile LSAT scores (160, 163, and 165).

**ii. Acceptance Rate Data**

With respect to the Class of 2007, Duff & Phelps found discrepancies between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The discrepancies are differences of three admission offers (LSAC data indicates 673 offers, while COL reported 676) and six applicants (LSAC data indicates 2,936 applicants, while COL reported 2,930). These discrepancies do not impact the acceptance rate percentage of 23%.

**c. USNWR Ranking**

USNWR used COL’s selectivity data for the Class of 2007 in connection with the 2006 Edition of USNWR’s law school ranking, which it published in 2005. COL was ranked 26<sup>th</sup> in this edition of USNWR’s ranking.

**d. Pless’s Job Performance and Pay**

As the 2003-2004 law school admissions recruiting season unfolded, it became apparent to COL leadership that the Admissions Office had miscalculated the “yield” for the Class of 2007 (i.e., the number of admitted applicants who would accept COL’s offer of admission). More specifically, many more applicants accepted admissions offers than the Admissions Office

had projected, resulting in the prospect of a “bulge” class that COL was not fully prepared to accommodate.

In May 2004, the then-Admissions Dean, who was regarded as responsible for the Class of 2007 yield miscalculation, separated from COL. In the summer of 2004, Pless was promoted to COL’s Director of Admissions and Financial Aid, at an annual salary of \$58,500. Hurd supported Pless’s promotion in a letter to the then-Interim Chancellor and Provost: “Paul has been with [COL] for just over a year and during that time has proved himself to be a very energetic, sharp, thoughtful strategist who fully understands the complexities of attracting a talented and diverse student body.”

In a letter to Pless offering him this position, Hurd observed: “Your work as the Assistant Director of this office has been exceptional, and I look forward to the new strides the office will make under your leadership.” App. 29. Pless’s salary was increased to \$62,500 (6.84%), effective August 16, 2004.

Hurd again noted Pless’s performance as Assistant Director in an August 30, 2004 letter to him: “I want to thank you for your valuable contributions to [COL] over the past year and congratulate you on your promotion to Director of Admissions and Financial Aid. I know that you will do a tremendous job of advancing the mission of attracting and sustaining a superb student body.” App. 30.

#### **4. Class of 2008 (188 Students)**

##### ***a. Median Goals***

COL’s 2005 Annual Report expressed COL’s goal of “[i]ncreas[ing] the median LSAT score of the entering class by at least two points and perhaps three, from 163 to 165, and with luck, 166; and improv[ing] the average GPA of the entering class by raising it from 3.42 to 3.5.” App. 31 at 3. The 2005 Annual Report also noted that these targeted gains would be facilitated by reducing the size of the class from 225 students to 180 students.

##### ***b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL***

###### **i. LSAT and GPA**

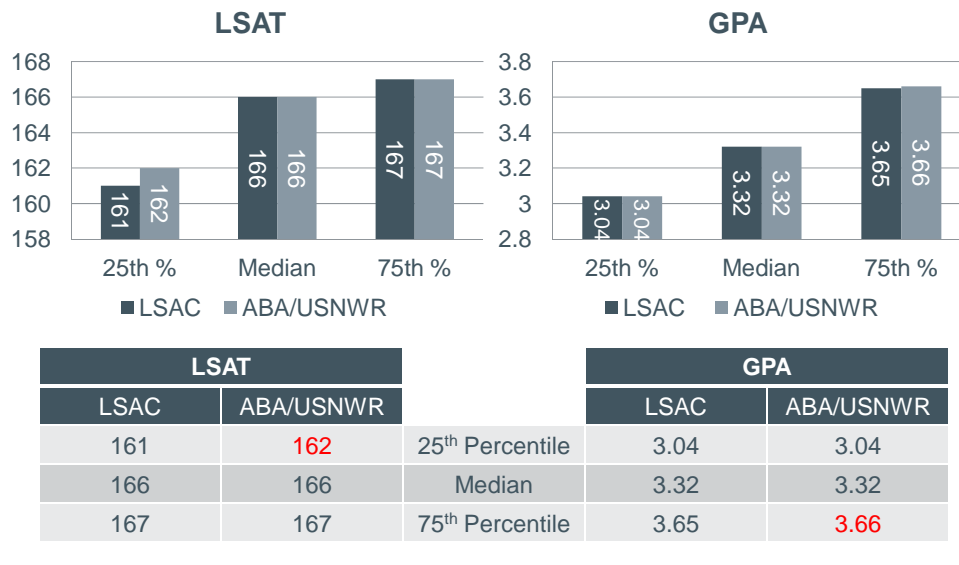
As illustrated by the chart below, with respect to this class, Duff & Phelps found that COL reported a 25<sup>th</sup> percentile LSAT score (162) to the ABA and USNWR that is one point higher than the 25<sup>th</sup> percentile score (161) derived from LSAC data. Similarly, the class’s 75<sup>th</sup> percentile GPA according to LSAC data was 3.65, but COL reported a GPA of 3.66.<sup>20</sup>

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<sup>20</sup> Former Dean Hurd signed the Dean’s Certification Page as part of the ABA Questionnaire that COL submitted with respect to this class. App. 69.

The investigation has discovered no documents or other information indicating the bases for these discrepancies. In particular, the investigation has not discovered information indicating that the discrepancies resulted from any changes to data relating to any individual students.

### College of Law Graduating Class of 2008



COL promoted Class of 2008 selectivity data through various means, including on its website and in marketing documents (e.g., Viewbook, Reference Sheet, Alumni Directory).<sup>21</sup> App. 32.

#### ii. Acceptance Rate Data

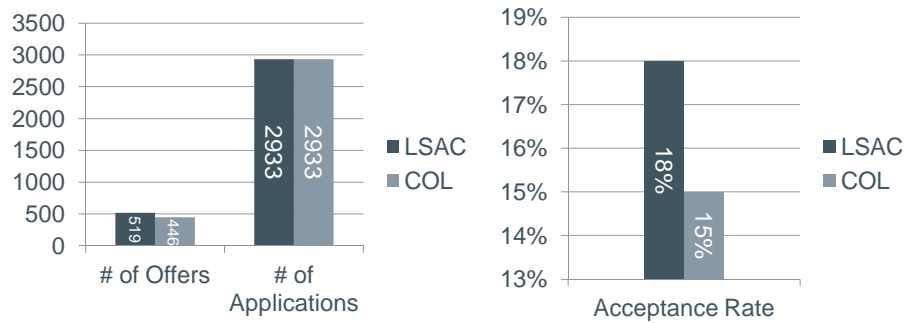
The Class of 2008 was the first class for which Duff & Phelps identified a discrepancy between the acceptance rate data maintained by LSAC and the acceptance rate data reported by COL to the ABA and USNWR. The acceptance rate for this class, using LSAC data, was 18%. COL, however, reported data showing an acceptance rate of 15%.

The disparity in these percentages arises from differences in the number of offers of admission upon which the calculations rely. According to LSAC data, 518 students received COL offers of admission for the Class of 2008. COL, by contrast, reported that 446 students (72 fewer) received admission offers.

<sup>21</sup> Certain media sources and publications (e.g., Leiter Law School Reports, Jurist magazine) ran stories covering the Class of 2008's selectivity data, and highlighting the class's three-point LSAT median increase over the prior year.

This investigation did not locate any COL documents or other information that supported the number of admissions offers reported by COL. The chart below illustrates Duff & Phelps’s acceptance rate findings for the Class of 2008:

**College of Law Graduating Class of 2008 Admission Statistics**



2008	# of Offers	# of Applied	Acceptance Rate
LSAC	519	2,933	18%
Reported by COL	446	2,933	15%

**c. USNWR Ranking**

USNWR used COL’s selectivity data for the Class of 2008 in connection with the 2007 Edition of USNWR’s law school ranking, which it published in 2006. COL was ranked 27<sup>th</sup> in this edition of USNWR’s ranking (tied with Boston College, College of William and Mary, University of North Carolina-Chapel Hill, and University of Washington).

**d. Pless’s Job Performance and Pay**

In October 2004, Pless applied for the Admissions Dean position. In an October 20, 2004 letter to the COL Director of Personnel and Facilities, Pless expressed his interest in the position and highlighted his relevant experience and skills:

I would welcome the opportunity to continue my work on behalf of [COL] by applying my strong technical and communication skills as the Assistant Dean for Admissions and Financial Aid.

During my tenure in the Admissions office, I have found the technical skills I first developed while working with State Farm’s System Development Team to be very applicable and extremely useful. My ability to use programs such as Microsoft Excel and Access to manipulate the significant amounts of data that the admissions process generates has proved particularly valuable in creating

procedures to continuously increase the quality, diversity and revenue from each incoming class.

Pless was offered and accepted the Admissions Dean position in December 2004, at an annual salary of \$72,000. In offering Pless this position, Hurd remarked:

Your work as the Director of this office has been exceptional, and I look forward to the new strides the office will make under your leadership. . . . I am pleased that we will continue to enjoy the opportunity to work together to strengthen our efforts to identify, recruit and ultimately enroll the best and brightest students in the country.

App. 33.

In a July 25, 2005 letter, Hurd informed Pless that his 2005-2006 salary would be increased to \$74,376 (“a 3.3% merit raise over [his] FY05 salary”), on the strength of the incoming class (the Class of 2008):

I want to congratulate you on the success that you have had this year in identifying and recruiting an extraordinarily well-credentialed in-coming class. You broke records in the industry, and you should feel enormously proud of the gains that [COL] will enjoy as a result of your bold initiatives and hard work. I look forward to the successes that you will have as you build on the foundation that you have so ably laid this year. You are a principal author of, and contributor to, the agenda of excellence that we have collectively set for [COL]. Students, faculty, and staff are in your debt and will very significantly owe the increased luster of their pedigree to your effective work. My heartiest thanks.

App. 34.

**5. Class of 2009 (186 Students)**

***a. Median Goals***

***i. Preliminary LSAT Goal***

Hurd’s preliminary goal for the Class of 2009’s median LSAT score was 167. In a July 24, 2005 email to Pless, the Executive Assistant Dean noted that he had spoken with Hurd about this goal and expressed uncertainty as to its viability: “We also talked about the one point increase she would like to see for next year. I told her that I (you) didn’t even know if it would be possible given the fact that any projected rankings increase will only affect yield and not applications and thus we may not have a pool that will give us a 167.” App. 35.

## ii. Five-Year Goals Set by 2006 Strategic Plan

COL unveiled the 2006 Strategic Plan in May 2006. App. 36. The “strategic intent” of the plan was to “elevate [COL’s] national standing among law schools” and to “be widely recognized as among the ranks of a more elite peer group.” App. 36 at 2. In particular, the Strategic Plan set a course “to reclaim a top-20 national ranking—an elite stature that [COL] lost in the wake of the budget cuts of the early ’90s.” App. 36 at 7. A major aspect of the plan was to achieve, within five years, a median LSAT score of 168 and a median GPA of 3.7 for an incoming class.

As of 2006, COL faced a significant challenge in improving its USNWR ranking given certain competitive disadvantages (e.g., relative deficiencies in endowment funds, other financial resources, and physical facilities). The 2006 Strategic Plan “targeted specific gains in . . . key areas,” including “Maintaining a Top-15 Student Body,” as measured by LSAT scores and GPAs. App. 36 at 8, 10.

The 2006 Strategic Plan noted that, “[f]our years ago, the credentials of [COL’s] incoming 1L class placed it in the nation’s 88<sup>th</sup> percentile with a median LSAT score of 162—a lackluster point of pride, at best,” and compared that class to the Class of 2008:

This year, [COL’s] incoming 1L class boasted a 166 LSAT median, placing it in the nation’s 95th percentile. The three-point LSAT median increase that we accomplished in the last year alone is, as far as we know, unprecedented in the legal academy, and it has won [COL] a good deal of national attention. It places [COL’s] 1L class in the nation’s top 15, on par with the entering classes at Berkeley, UCLA, Texas, and USC and just a hairsbreadth behind those of students at Cornell. Because the *US News* law school rankings place so much weight on student credentials, [COL] would have moved from 27th to 20th in last year’s rankings had we been able to report this improvement a year ago (holding all else constant).<sup>22</sup>

App. 36 at 10-11.

The 2006 Strategic Plan also observed, however, that the Class of 2008’s three-point median LSAT increase came at the expense of its median GPA and that COL would seek to rectify this going forward:

Our improvements in median LSAT have not been matched by our median GPA numbers (3.32 in 2005), which are well below those of our principal competitive targets. Indeed, lowered GPA expectations was a necessary component of the LSAT increase we achieved this year, but this left us with a GPA profile worse

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<sup>22</sup> The 2006 Strategic Plan pointed out that, “[t]o a person, [COL]’s 1L faculty has reported a very noticeable ‘lift’ in the quality of classroom conversations and in the quality of papers and exams submitted by 1L students.”

than any other top-50 school. Thus, raising our GPA profile, while holding our LSAT gains, is a principal objective of this year’s admissions strategy.

App. 36 at 11.

The 2006 Strategic Plan emphasized that “[n]either of the strategies that combined successfully . . . for an increased median LSAT (class size reduction and drawing down reserves to finance increased scholarship support) [were] available to [COL] in the coming years . . . to sustain and improve on this initial gain in student quality.” It was also expected that fewer people would apply to law school and that, consequently, “many more schools [would compete] with one another for the same prospective students, and . . . far wealthier schools [would] devote very substantial resources to attracting exactly the students [COL] need[ed] to sustain [COL’s] present, very fragile student profile.” App. 36 at 11.

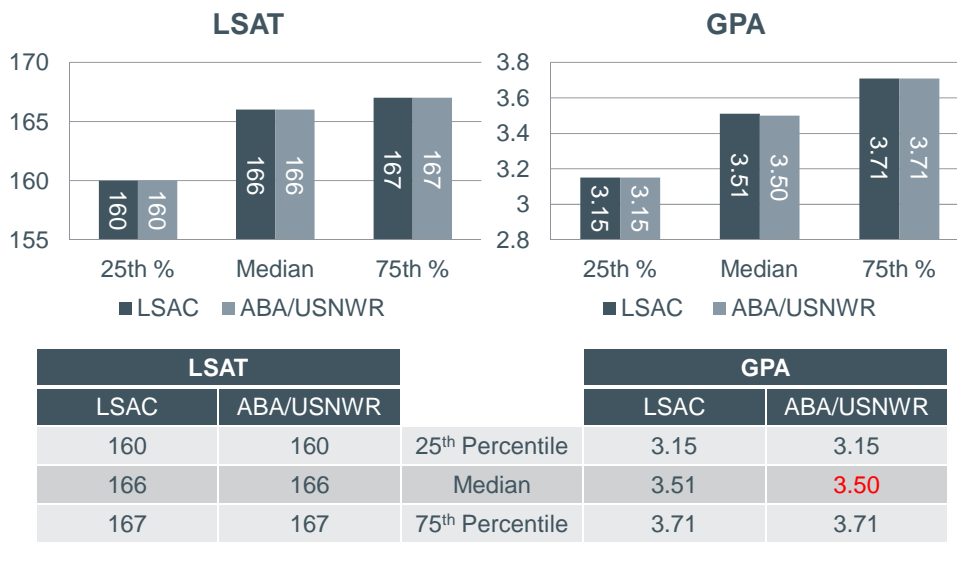
The 2006 Strategic Plan was frank about the importance of scholarship funds in this competitive environment: “Law schools now ‘buy’ high-end students, and it is a raw fact that unless we have the dollars to compete in this market, we will not attract a student body that matches those of wealthier peer schools.” COL was thus faced with the challenge of “attract[ing] a top-15 student body with far fewer resources in a far more competitive market.” To achieve this end, COL decided to “harvest[] . . . dwindling law school reserves” to fund a quadrupling of the amount of scholarship monies available to students. COL had set aside these reserves for a separate initiative unrelated to admissions, but “deemed it far more important to halt the downward spiral in the law school’s national standing by using these funds to secure a top-15-quality student body.” App. 36 at 12, 11.

***b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL***

***i. LSAT and GPA***

As illustrated by the chart below, with respect to this class, Duff & Phelps found no discrepancies between the LSAT and GPA data maintained by LSAC, on the one hand, and the LSAT and GPA data reported by COL to the ABA and USNWR, on the other hand, except that the median GPA of 3.50 reported by COL is *lower* than the median of 3.51 provided for by the LSAC data.

College of Law Graduating Class of 2009



COL promoted Class of 2009 selectivity data through various means, including on its website and in marketing documents (e.g., Viewbook, Reference Sheet, Reference Card, Alumni Directory). App. 72.

**ii. Acceptance Rate Data**

With respect to the Class of 2009, Duff & Phelps found a discrepancy between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The discrepancy is a difference of one admission offer, which does not impact the acceptance rate percentage of 23%.

**c. USNWR Ranking**

USNWR used COL’s selectivity data for the Class of 2009 in connection with the 2008 Edition of USNWR’s law school ranking, which it published in 2007. COL was ranked 25<sup>th</sup> in this edition of USNWR’s ranking (tied with Fordham University and Washington and Lee University).

**d. Pless’s Job Performance and Pay**

**i. Effort to Obtain a Mid-Year Raise for Pless**

In September 2005, as Pless and others in the Admissions Office set out to recruit applicants for the Class of 2009, Hurd set out to obtain a 15% mid-year pay increase for Pless. In a September 15, 2005 letter to the then-Interim Urbana-Champaign Provost, Hurd supported the proposed pay increase by reference to the possibility that Pless might be lured away by

another law school and to Pless's work contributions, including the Class of 2008's median LSAT score:

The situation at hand reflects a serious salary inequity that I must address at this time on pain of losing Paul to a peer competitor.

As part of the FY06 salary increase program, I requested a 3.3% increase for Paul. I did so with the knowledge that he was on the verge of successfully attaining the goal of recruiting the single best incoming JD class in the history of [COL] by a significant margin. I think it important that I share with you the details of that success both in absolute and relative terms so that you can appreciate just how ambitious the goal was and how significant was Paul's achievement . . . . By statistically analyzing previous classes and the data on prospective students from previous years, Paul was able to construct an admissions model that would optimize the following criteria for the incoming class: LSAT score, diversity, residency mix, student-faculty ratio and net tuition revenue. And optimize he did. *The median LSAT score for this year's class is 166, representing a full three-point increase over last year's class and the single largest LSAT increase ever achieved by a law school in a single year.* The importance of this single factor cannot be overstated. The median LSAT score represents 12.5% of the *US News and World Report* ranking score. Relative to other schools, a 166 median puts our incoming class ahead of the classes recruited by Berkeley and Texas and within a single point of Duke and Cornell. Had we been able to report this increase last year, holding all else equal, we would have moved from 26<sup>th</sup> to 20<sup>th</sup> in the *US News* rankings.

Hurd also noted that Pless was "earn[ing] \$14,624 less than his predecessor and \$34,000 less than the average of other assistant deans at [COL]." Hurd added that, while Pless had accepted the Admissions Dean position "believing that the inequity was a legitimate response to his inexperience, his performance has outstripped many of his far more experienced administrative colleagues." Hurd observed that "[t]his salary inequity has come to be a significant source of frustration for Paul."

Hurd predicted that Pless's "discontent" over "salary inequity" would cause him to seriously consider employment overtures from other, "higher ranked" law schools offering more pay:

Paul has recently received a substantial number of inquiries from peer and higher ranked schools concerning his willingness to contemplate a career shift away from Illinois. I believe that if we do not address the salary inequity that has come to be an insult to his performance, Paul will be induced to consider offers from schools who would be delighted to pay for the improvements he can bring to their student profiles. . . . Paul's discontent, coupled with the considerable national interest expressed in him as a result of the credentials of our incoming class, produces both the motivation and the means for him to attract (and accept) offers in considerable excess of what I propose here. With your permission I would like

to address the existing salary inequity so as to rightly reward Paul for a job very well done. I am very hopeful that in achieving equity, I can retain Paul's remarkable talents so as to preserve the great advantage of attracting students in the nation's 95<sup>th</sup> percentile.

**ii. Pless's 2006-2007 Raise**

The University did not grant Pless a mid-year raise, but Hurd persisted in her effort to obtain a substantial pay increase for him as a means of keeping other law schools at bay. In a July 27, 2006 letter to the then- Urbana-Champaign Provost and Vice Chancellor for Academic Affairs, Hurd provided support for a "retention increase" for Pless:

As you know, [COL] has recently made unprecedented gains in the academic quality of its student body—ranking first this year amongst all law schools in the nation in its improvement of its student credentials. These gains are very much the products of a comprehensive plan developed and implemented by Paul. In designing this plan, Paul has proved himself an immediate star in the law school Admissions field. He now regularly fields requests to speak to groups of his peers on admissions theory and practice and he is naturally in the hiring sights of every dean in America who wants to improve student rankings.

In particular, Hurd advised the then-Provost and Vice Chancellor that, at that time, she was in "a fight" with another law school over Pless and that the Dean of that school had met with Pless, "wined and dined him, offered a salary increase, and impressed him with the many virtues of life in [that area of the country]." Hurd explained that she could "only defend against this predatory offer by offering [Pless] a salary increase that flatly beat[]" the salary offered by Pless's suitor. As such, Hurd proposed a salary for Pless of \$98,000, which "would place Paul's salary near, but still below, the median of Assistant Dean salaries at [COL,] still below that of his predecessor" and "close to the mean of Assistant Deans of Admission."

The University quickly granted the requested retention increase (a raise of \$23,624 or 31.76%), and Hurd notified Pless of the same in a July 31, 2006 letter, in which she again heaped praise on him:

Your leadership of the Office of Admissions and Financial Aid produced tangible, significant, visible, and much-appreciated results that will redound for years to come to the credit of [COL]. Congratulations, in particular, on again recruiting a class of students that breaks past records for academic achievement and diversity. Your success in improving [COL's] student body is extraordinarily important and much appreciated by all.

App. 37.

**6. Class of 2010 (172 Students)**

**a. Median Goals**

In its 2007 Annual Report, COL made clear that its effort to raise the median GPA of its incoming classes was ongoing:

[W]e have now started to target an increase in our GPA, and we boosted our GPA for the entering [C]lass of 2006 from 3.32 to 3.5 which put it at [sic] level that matched the GPA of our relative institutional peers. And we expect to take the GPA of the entering [C]lass of 2007 to 3.6-3.7, which we hope will place our students in the Top-15 (if we hit a 3.7 GPA) or at least the Top-20 (if we hit a 3.6 GPA) by this index.

App. 17 at 6.<sup>23</sup>

The 2007 Annual Report noted COL's recent gain with respect to the median LSAT score, but did not signal a push for further LSAT gains:

In the last five years we have improved [COL's] student LSAT median (which is the principal determinant of the quality of a school's student body used by the U.S. News and World Report Rankings) by a dramatic amount, taking [COL's] entering class from the 86th percentile nationally to the 96th percentile, and achieving a four point increase in the LSAT median that took it from 162 to 166.

App. 17 at 6.

With applications down nationwide by 20% it is to[o] early to assess whether maintaining the same LSAT median while lifting the GPA will improve our student body or match it to those of peers, but we project that our student body will remain within the nation's Top-15.

App. 17 at 3.

**b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL**

**i. LSAT and GPA**

As illustrated by the chart below, with respect to this class, Duff & Phelps found that COL reported a 25<sup>th</sup> percentile LSAT score (160) to the ABA and USNWR that is one point

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<sup>23</sup> During an interview with investigators, Pless stated that the median goals for this class were 166 (LSAT) and 3.6 or 3.59 (GPA).

higher than the 25<sup>th</sup> percentile score (159) provided for by LSAC data. Similarly, the class's median GPA according to LSAC data was 3.59, but COL reported a median GPA of 3.60.<sup>24</sup>

The investigation has discovered no documents or other information indicating the bases for these discrepancies. In particular, the investigation has not discovered information indicating that the discrepancies resulted from any changes to data relating to any individual students.

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### College of Law Graduating Class of 2010

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	0	0	0	0	0
GPA Discrepancy	0	0	0	0	0

LSAT				GPA		
LSAC	COL	ABA/USNWR		LSAC	COL	ABA/USNWR
159	159	160	25 <sup>th</sup> Pctl.	3.18	3.18	3.18
166	166	166	Median	3.59	3.59	3.60
167	167	167	75 <sup>th</sup> Pctl.	3.80	3.80	3.80

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COL specified and promoted Class of 2010 selectivity data through various means, including on its website and in marketing documents (e.g., Fall 2008 Recruiting Guide, Reference Sheet, Reference Card). App. 38.

#### ii. Acceptance Rate Data

With respect to the Class of 2010, Duff & Phelps found one discrepancy between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The discrepancy is a difference of one applicant, which does not impact the acceptance rate percentage of 30%.

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<sup>24</sup> Former Interim Dean Tabb signed the Dean's Certification Page as part of the ABA Questionnaire that COL submitted with respect to this class. App. 69.

**c. USNWR Ranking**

USNWR used COL's selectivity data for the Class of 2010 in connection with the 2009 Edition of USNWR's law school ranking, which it published in 2008. COL was ranked 27<sup>th</sup> in this edition of USNWR's ranking (tied with Fordham University and University of Iowa).

**d. Pless's Job Performance and Pay**

In late August 2007, Pless was advised that his 2007-2008 salary would be "\$100,450, reflecting a merit increase of 2.5%." In a letter to Pless, Hurd explained this salary increase:

Your leadership of the Office of Admissions and Financial Aid has been crucial to achieving the "national buzz" that has been associated with Illinois in recent years and has importantly contributed to the success that [COL] has had in recruiting stellar faculty and staff, attracting highly-credentialed students, broadening our curriculum, enlivening our intellectual and community culture, bolstering the regional and national media's reliance on our faculty's expertise, improving our students' career prospects, internationalizing our programs, classes, and institutional aspirations, refurbishing our physical facilities, and securing private gifts and grants that will ensure long-term security. I particularly want to commend and thank you for the creative and aggressive initiatives you have adopted to recruit both J.D. and LL.M. students who make Illinois an envied competitor amongst the nation's leading law schools.

App. 39.

**7. Class of 2011 (188 Students)**

**a. Median Goals**

COL's 2008 Annual Report referred to the median LSAT and median GPA goals for the Class of 2011 as follows:

The Class of 2010, entering Fall 2007, continued our trend of significantly improved statistics, with a median LSAT of 166 (95<sup>th</sup> percentile) for the third year in a row and an increase in the median GPA to 3.6 (up from 3.5 the preceding year and 3.32 the year before that). Every indication is that we will retain a median LSAT of 166 for the Class of 2011 (entering Fall 2008), along with a median GPA somewhere between a 3.6 and a 3.7. Indeed, we are optimistic that we may even achieve our goal of 3.7 this year, well ahead of schedule.

App. 16 at 6.<sup>25</sup>

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<sup>25</sup> During an interview with investigators, Pless stated that the median goals for this class were 166 (LSAT) and 3.66 (GPA).

**i. Mid-Year Reassessment of Goals**

During the 2007-2008 academic year, COL personnel assessed the median goals for the Class of 2011 in light of projections of the class size and related budgetary considerations. For instance, in a January 22, 2008 email to then-Interim Dean Tabb (copied to the then-Assistant Dean of Finance and Human Resources), Pless observed:

I think the largest number we can have without losing [the LSAT median of] 166 and keeping to the same scholarship budget is 195 to 200 [students]. The additional 5-10 people would almost certainly be residents. This change will likely make a 3.7 [median GPA] impossible.

....

Dropping the LSAT median to a 165 would have a marginal impact on these numbers since we have already admitted 527 students. Just to give you an idea of [how] highly finely tuned the process is, we have admitted 107 people with a 166 LSAT. We have admitted 24 with a 165, and very few of them have scholarship offers from us. Because of this our yield on 165's is abysmal, typically less than 15% compared to 30% of 166's. Unfortunately it goes farther than that. We tune our fee-waiver program to a goal of 166 as well and currently have 206 applicants with a 166 vs. 81 with a 165. In another bizarre twist, changing the plan now to shoot for a 165 would actually force me to offer more scholarships, since I would need to start offering money to 165's to ensure I have enough of them in the class.

App. 40.

Tabb responded to Pless by email later on January 22, 2008, noting that "this is great" and reaffirming the preexisting LSAT goal: "One thing [is] for sure: I'm all in on 166. That is definite. . . . On total 1L target #, shoot for 200 [students] if possible but in no way risk losing 166." App. 40.

In an email exchange on January 26 and 27, 2008, Pless and Tabb continued this discussion. Pless wrote:

- 1) This model is built on 200 1L's for the Class of 2011. It seems like we could afford to go for a class of 190 instead, given that we are projecting over \$600,000 in unrestricted reserves (and \$3.8 mil in overall reserves). . . .
- 2) Given that we are projecting almost \$8 mil in profit (sorry, don't know what else to call it) over the next 4 years we can probably afford to bump up the scholarship budget a smidge more in FY10-FY12. One of the principals [sic] of this plan to drastically raise tuition was to funnel a lot of that back into scholarships, both to reduce the burden on our students and to increase our spending for US News.

App. 41.

In his email response, Tabb noted that Pless's "points seem well-taken," and "encourage[d Pless] to shoot for 200 if possible this year, keeping of course the 166 & 3.7 goals always in sight." Tabb added:

We need to maintain a constant dialogue about the potential marginal profits (in light of LSAT and GPA targets) of increasing the class size (and thus obviously tuition revenue) at the expense of increased aid. In a nutshell, it seems to me as defensible that we could even go as high as 210 students if we could keep a 166/3.7 AND not lose any net revenue from [the] . . . current model. Indeed, Paul you probably are right that we could possibly allocate a bit more than projected to scholarships given our current projections.

**ii. Need to Increase Scholarship Funds to Sustain Median Gains**

The 2008 Annual Report attributed COL's "trend of significantly improved statistics" to "careful management of applications and use of reserves in [COL] to significantly expand scholarship awards." The report pointed out that, over the preceding four years, COL had "quadrupled the amount of scholarship aid awarded to students." Two years into the 2006 Strategic Plan, however, the 2008 Annual Report cautioned that the plan's 5-year "strategic goal of a 168 LSAT median will be extremely difficult to attain without literally millions of additional scholarship dollars."

Our goal in taking the LSAT and GPA scores to a significantly higher level was to help push [COL] into higher rankings. When that happens, it will help attract more students with higher scores, without having to increase scholarships by significant additional amounts of funding. However, this takes a long time, and currently there is no realistic prospect that we would be able to increase the LSAT score to a 168 within the five-year timetable initially projected. Indeed, even to move from a 166 to a 167 would in our estimation take over a million dollars in new scholarship money.

App. 16 at 6.

As such, the 2008 Annual Report, in effect, set a two-year, interim plan with its own median GPA and LSAT goals:

Our current plan – which itself will take substantially more scholarship money – is to attain and then hold the 3.7 GPA while maintaining a 166 (95<sup>th</sup> %) LSAT for the next two years. After that it is difficult to predict where we will be able to go. I would note that the LSAT increases at this rarefied level are virtually geometric in scope. To move from a 166 to a 167 will require a major leap forward and massive resource infusion; to then go to a 168 would require the same yet again. Frankly, the original projection of a 168 within 5 years was profoundly unrealistic.

App. 16 at 6.

**b. *Selectivity Data—Comparison of LSAC Data with Data Reported by COL***

**i. **LSAT and GPA****

As illustrated by the chart below, with respect to this class, Duff & Phelps found discrepancies between (1) the LSAT and GPA data maintained by LSAC, (2) the LSAT and GPA data maintained by COL, and (3) the LSAT and GPA data reported by COL to the ABA and USNWR.<sup>26</sup> (COL reported Class of 2011 selectivity data to the ABA both in the 2008 ABA Questionnaire and later in the 2010 Self Study.)

In addition, the Class of 2011 is the first class for which Duff & Phelps identified changes to data maintained by the Admissions Office related to individual students. Specifically, in a spreadsheet that Pless used to track applicants and to compute the Class of 2011's median LSAT score and median GPA, two students' LSAT scores were changed to 166, despite the fact that, as indicated by the students' application materials maintained within LSAC's CAS database, one of the students had an LSAT score of 164, while the other student had an LSAT score of 165. Based on LSAC data, 95 students in the class had an LSAT score below 166, while 93 students had an LSAT score of 166 or above. Increasing these two, below-166 LSAT scores to 166 thus reversed this 95-93 split and created a data foundation (albeit an erroneous one) for the claim that the Class of 2011's median LSAT score was 166.

The following discrepancies were identified with respect to LSAT and GPA data for the Class of 2011:

- The 25<sup>th</sup> percentile LSAT score according to LSAC data was 159, but it was reported as 160.
- The median LSAT score according to LSAC data was 165, but it was reported as 166.
- The 75<sup>th</sup> percentile LSAT score according to LSAC data was 166, but it was reported as 167.
- The 25<sup>th</sup> percentile GPA according to LSAC data was 3.13, but it was reported as 3.2.
- The median GPA according to LSAC data was 3.55, but it was reported as 3.59.

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<sup>26</sup> Former Interim Dean Brubaker signed the Dean's Certification Page as part of the ABA Questionnaire that COL submitted with respect to this class. App. 69.

- The 75<sup>th</sup> percentile GPA according to LSAC data was 3.78, but it was reported as 3.80.

The investigation did not identify any changes to the GPAs of any individual students. The discrepancies in the GPA data, with the exception of the 75<sup>th</sup> percentile discrepancy, cannot be justified by rounding.

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### College of Law Graduating Class of 2011

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	2	0	2	0	0
GPA Discrepancy	0	0	0	0	0

LSAT				GPA		
LSAC	COL	ABA/USNWR		LSAC	COL	ABA/USNWR
159	159	160	25 <sup>th</sup> Pctl.	3.13	3.13	3.20
165	166	166	Median	3.55	3.55	3.59
166	166	167	75 <sup>th</sup> Pctl.	3.78	3.78	3.80

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COL promoted Class of 2011 selectivity data through various means, including on its website and in marketing documents (e.g., Viewbook, Fall 2009 Recruiting Guide, Reference Sheet). App. 42.

#### ii. Acceptance Rate Data

With respect to the Class of 2011, Duff & Phelps found discrepancies between the acceptance rate data maintained by LSAC and the acceptance rate data that COL reported to the ABA and USNWR. The discrepancies are differences of one applicant and two admission offers, which do not impact the acceptance rate percentage of 29%.

#### c. USNWR Ranking

USNWR used COL's selectivity data for the Class of 2011 in connection with the 2010 Edition of USNWR's law school ranking, which it published in 2009. COL was ranked 23<sup>rd</sup> in this edition of USNWR's ranking (tied with Indiana University-Bloomington and University of Notre Dame).

**d. Pless's Job Performance and Pay**

In an August 25, 2008 letter, then-Interim COL Dean Brubaker notified Pless that he (Brubaker) had managed to secure funding for raises beyond those that the University's salary program would have permitted, and that Pless would receive a 5.5% raise for 2008-2009:

As you may be aware, the University of Illinois is facing significant financial challenges in the coming year and, as a result, has funded a very modest salary program for 1.5% average merit raises campus-wide. I have supplemented this funding with [COL] resources in order to provide an enhanced raise pool for [COL] employees. Subject to approval by the Board of Trustees, your 2008-2009 salary will be \$105,957, which represents a 5.5% raise over your 2007-2008 salary of \$100,450.

App. 43.

**8. Class of 2012 (232 Students)**

**a. Median Goals**

**i. Heightened Emphasis on Applicant GPAs**

In its 2009 Annual Report, COL set forth its median LSAT and GPA goals for the Class of 2012 and noted that it was placing a heightened emphasis on the GPAs of applicants in an effort to improve its USNWR ranking:

Median LSAT and median undergraduate GPA factor importantly in the *U.S. News* rankings, with LSAT accounting for 12.5% [of the rankings] and undergraduate GPA accounting for 10%. . . . Recently, [COL] has engaged in modeling simulations based on the *U.S. News* formula suggesting that a greater emphasis on undergraduate GPA would improve [COL's] relative position in the *U.S. News* rankings. With this insight in mind, [COL's] current goal is to admit an incoming class with a median LSAT score of 166 and a median undergraduate GPA of 3.8.

App. 44 at 7.<sup>27</sup>

The 2009 Annual Report also indicated that increased attention to applicant GPAs would yield better qualified students in other important respects:

In recent years, [COL] has followed a strategy of attempting to recruit an incoming class with a lofty median LSAT score – essentially trying to matriculate

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<sup>27</sup> During an interview with investigators, Pless stated that the median goals for this class were 166 (LSAT) and 3.76 (GPA).

101 students with LSAT scores of 166 (95<sup>th</sup> percentile) or above in a class of 200 students. Although [COL] has been successful in returning classes with this profile, the strategy has had certain undesirable effects. Undergraduate GPA – a powerful indicator of future success in the profession that weighs heavily in the *U.S. News* rankings and in hiring decisions by legal employers – became a secondary consideration. Positive attributes that could not be quantified (such as work experience, strength of undergraduate institution or major, and strong references) were also minimized.

During 2008-09, after considerable internal study and input from faculty members conversant with the *U.S. News* rankings and statistical simulations, [we] reassessed [our] admissions model, placing considerably more emphasis on undergraduate GPA. In addition to strengthening our profile in the *U.S. News* rankings, we believe that high undergraduate GPA is likely to correlate with the type of diligence, perseverance, and organization necessary to succeed in legal practice. We expect our next class to have higher numbers of students admitted to undergraduate honor societies (such as Phi Beta Kappa and Sigma Xi), a higher percentage with Master's and Ph.D. degrees, and a higher percentage with relevant work experience.

App. 44 at 8.

## **ii. Consideration of Different LSAT/GPA Combinations**

Smith was installed as COL Dean in February 2009. Previously, Smith was Associate Dean for Academic Affairs, a position in which he had few responsibilities with respect to admissions generally and none with respect to the reporting of admissions-related information. As Dean, however, Smith quickly became involved in admissions matters and thereafter worked closely with Pless to craft admissions strategies and to keep apprised of recruiting efforts.

In an email in late January 2009, as Smith was preparing to assume the deanship, Pless updated Smith on a discussion he had had with then-Interim Dean Brubaker concerning the median goals for the Class of 2012 and related implications for COL's USNWR ranking:

I met with Dean Brubaker and gave him an update on the class. There is still some flexibility between the 166/3.7 and the 165/3.8 option. This flexibility decreases with each passing week. Dean Brubaker instructed me to focus on the 165/3.8 option, but asked that I speak with you about this as well. This issue might well need a longer conversation than is possible currently. The decision can wait until the first part of February, but any longer delay would make things more difficult and expensive. If you recall, the Lawless calculator projects a 4 place improvement [in COL's USNWR ranking] with the 165/3.8 over the 166/3.7.

App. 19.

In late April 2009, as reflected in an email exchange between Smith and Pless on April 28 and 29, 2009, Smith reviewed data related to Class of 2012 applicants and sought Pless's opinion on the viability of enrolling a class with an LSAT/GPA median combination of 165/3.8 (rounded). App. 45. In response, Pless set forth calculations indicating that a 165/3.75 combination was attainable, and proclaimed: "I haven't let a Dean down yet, I don't plan on starting with you Boss. We can get this done."<sup>28</sup>

In prepared remarks that he delivered at the Fall 2009 COL Board of Visitors<sup>29</sup> meeting, Smith described the position that he ultimately took with respect to the choice between the 165/3.8 and 166/3.7 options:

When I came into the deanship in February, the goal was a class of 195 [students] with a profile of 165/3.8 or 166/3.7.

I told Paul that we should push the envelope, think outside the box, take some risk, and do things differently[, including] s[triv[ing] for a 166/3.8 – a level never attained before at [COL] and, frankly, thought to be unattainable at such a large class size.

App. 46.

***b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL***

***i. LSAT and GPA***

As illustrated by the chart below, with respect to this class, Duff & Phelps found discrepancies between the LSAT and GPA data maintained by LSAC, on the one hand, and the LSAT and GPA data reported by COL to the ABA and USNWR, on the other hand.<sup>30</sup> (COL reported Class of 2012 selectivity data to the ABA both in the 2009 ABA Questionnaire and later in the 2010 Self Study.) With respect to both LSAT and GPA discrepancies, Duff & Phelps identified changes to data corresponding to individual students.

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<sup>28</sup> As this email exchange indicates, in his first few months as Dean, Smith was occasionally provided with LSAT scores and GPAs of individual COL applicants. As noted above, in the fall of 2009, COL instituted the admissions "firewall" recommended by the ARC. From that point forward, Smith had no role in the consideration of any individual COL applicants and did not view application materials or information related to individual applicants.

<sup>29</sup> The Board of Visitors, consisting of COL alumni, assists COL in various respects, including recruiting prospective students and faculty members, cultivating employers in regions under-represented by COL graduates, mentoring students, and assisting with fundraising efforts.

<sup>30</sup> Smith signed the Dean's Certification Page as part of the ABA Questionnaire that COL submitted with respect to this class. App. 69.

With respect to LSAT data, in a spreadsheet Pless used to track applicants and to compute the Class of 2012’s median LSAT score, one student’s LSAT score was changed to 166, despite the fact that, as indicated by that student’s application materials maintained within LSAC’s CAS database, the student had an LSAT score of 165. Based on LSAC data, 117 students in the class had an LSAT score below 166; while 115 students had an LSAT score of 166 or above. Increasing this one, below-166 LSAT score to 166 thus had the effect of equalizing the number of scores below 166 and those scores at or above 166 (116 for both) and creating a data foundation (albeit an erroneous one) for the claim that the Class of 2012’s median LSAT score was 166. (With this one change, the median LSAT score was increased to 165.5, which could be, and evidently was, rounded to 166 for reporting purposes.)

With respect to GPA data, in the same spreadsheet referred to above, 12 students’ GPAs were changed. Each change was upward, and each worked to increase the median GPA from 3.70 to 3.75, which could be, and evidently was, rounded to 3.8 for reporting purposes.

### College of Law Graduating Class of 2012

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses ABA 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	1	0	1	0	0
GPA Discrepancy	12	0	12	0	0

LSAT			25 <sup>th</sup> Pctl.	GPA <sup>f</sup>		
LSAC	COL	ABA/USNWR		LSAC	COL	ABA/USNWR
160	160	160		3.2	3.2	3.2
165	166 (165.5)	166	Median	3.7	3.8 (3.75)	3.8
167	167	167	75 <sup>th</sup> Pctl.	3.9	3.9	3.9

<sup>f</sup> In 2012, GPAs were reported to one decimal place.

COL promoted Class of 2012 selectivity data through various means, including on its website and in marketing documents (e.g., Reference Sheet, Reference Card). App. 47. In COL’s Fall 2009 E-Newsletter, for instance, Smith represented as follows: “In August, [COL] welcomed its 232-member Class of 2012 – the most academically talented in [COL’s] history, with a median LSAT score of 166 (94th percentile) and a median GPA of 3.8.” App. 48.

#### ii. Acceptance Rate Data

With respect to the Class of 2012, Duff & Phelps identified discrepancies between the acceptance rate data maintained by LSAC, on the one hand, and the acceptance rate data reported by COL to the ABA and USNWR, on the other hand. The acceptance rate for this class, as

provided for by LSAC data, was 37%. COL, however, reported data resulting in an acceptance rate of 29%.

The disparity in these acceptance rate percentages arises from differences in the number of applications and the number of admissions offers upon which the percentages were based. In particular, COL's calculation was based on more applications and fewer admissions offers than provided for by LSAC data, thus giving the appearance that COL's acceptance rate was lower, and that it was therefore more selective, than it in fact was.

The way in which Pless computed these figures is evident in the spreadsheet that he appears to have used to compute selectivity data with respect to the Class of 2012. App. 49. Included in this spreadsheet is a "Summary" tab that contains formulas linked to a data tab that is also part of the spreadsheet. The data tab includes detailed information on each applicant to COL that year, including, if applicable, whether the applicant was seeking admission not into the J.D. program beginning in the fall of 2009 (i.e., the Class of 2012), but instead as a transfer student or into an advanced study program. With respect to the number of applications it received for this class, COL appears to have included as applications those received from prospective transfer and advanced study students. These applicants should not have counted as applicants to Class of 2012.<sup>31</sup>

Despite this, the formula that Pless's spreadsheet used to calculate the number of applicants specifically included applications from applicants identified as transfer and advanced study students. Duff & Phelps also identified and analyzed a separate spreadsheet that Pless maintained and that contains data with respect to both the Class of 2011 and the Class of 2012; two columns in this spreadsheet show that transfer and advanced study students were not included as applicants for the Class of 2011, but were included as such for the Class of 2012. App. 49. (Indeed, prospective transfer and advanced study students had not been counted by COL as J.D. applicants in any prior year analyzed by Duff & Phelps.)

As provided for by LSAC data, COL extended 1,248 admissions offers for the Class of 2012. COL, however, reported this number as 1,031 (217 fewer). App. 49. Unlike the Class of 2008, for which no records memorializing Pless's acceptance rate calculations were found, an internal spreadsheet that Pless evidently used to perform these calculations with respect to the Class of 2012 was located and analyzed. This spreadsheet contains a summary sheet that sets forth the number of admitted applicants as 1,031. App. 49. Duff & Phelps's comparison of the applicant data contained on this spreadsheet with that maintained by LSAC revealed that the spreadsheet omitted the following applicants:

- One student whom LSAC identified as "admit";
- 15 students whose status LSAC recorded as "defer"; and

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<sup>31</sup> During an interview with investigators, Pless acknowledged that including transfer and advanced study applicants would result in incorrect computing and reporting.

- 201 students whom LSAC identified as “withdrew before deposit.”

The designations “admit,” “defer,” and “withdrew before deposit” all indicate that the applicants involved were extended offers of admission by COL and should therefore have been included among the admitted applicants for ABA/USNWR reporting purposes.

In an interview with investigators, Pless stated that his practice was to remove deferred applicants from his acceptance rate calculations and that he included these applicants as admitted in the class into which they eventually matriculated. It should be noted, however, that in years in which there were no acceptance rate discrepancies between COL and LSAC data, deferred students were included as admissions in the year in which they applied. Furthermore, Duff & Phelps did not find any evidence indicating that deferred students were later counted as admissions in the COL classes in which they matriculated.

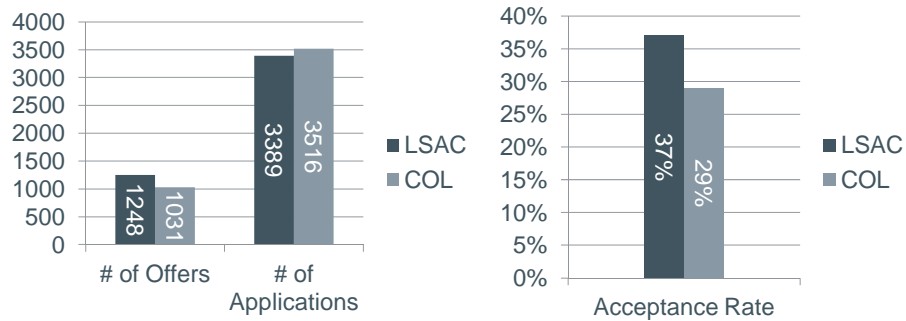
It should also be noted that, in prior years, COL applicants who were listed as “withdrew before deposit” were counted as admissions. When the LSAC list of admitted applicants for the Class of 2012 is sorted by status, then by gender, and then alphabetically by last name, the applicants excluded from COL’s acceptance rate data as reported to the ABA and USNWR fall into six categories of contiguous omissions:

- 10 men whose last names range from Ab to Ak; and
- 14 men whose last names range from An to Au;
- 16 men whose last names range from Bra to Bro;
- 42 men whose last names range between M and N;
- 118 men whose last names range at various points in the alphabet between O and T; and
- 1 woman.

The removal of these applicants from the admitted category allowed COL to report acceptance rate data indicating a rate that equaled that of the Class of 2011 (29%). If these omitted students had been included, the acceptance rate for the Class of 2012 would have risen by 8% to 37%.

The chart below illustrates Duff & Phelps’s acceptance rate findings for the Class of 2012:

## College of Law Graduating Class of 2012 Admission Statistics



2012	# of Offers	# of Applied	Acceptance Rate
LSAC	1,248	3,389	37%
Reported by COL	1,031	3,516	29%

### *c. USNWR Ranking*

USNWR used COL’s selectivity data for the Class of 2012 in connection with the 2011 Edition of USNWR’s law school ranking, which it published in 2010. COL was ranked 21<sup>st</sup> in this edition of USNWR’s ranking.<sup>32</sup>

### *d. Pless’s Performance and Pay*

Pless received his first (and thus far only) formal written performance evaluation on September 15, 2009. Smith, as his supervisor, prepared and signed the evaluation, and gave Pless a rating of “Outstanding” (the highest rating) for all categories contained in the evaluation form—Knowledge, Judgment, Productivity, Professional Relationships, Organization, Reliability, Supervision, and Overall Performance.

In October 2009, Smith nominated Pless for a “Chancellor’s Academic Professional Excellence” Award, an award given annually to one or more Urbana-Champaign employees on the academic professional staff based on work, personal, and/or professional contributions. In an October 30, 2009 nomination letter, Smith noted that Pless “ha[d] performed at the highest level

<sup>32</sup> In COL’s Spring 2010 edition of its E-Newsletter, COL celebrated this ranking: “As many of you know, [COL] moved to #21 in the . . . U.S. News & World Report ranking of Best Law Schools, released last month – [COL]’s highest ranking in over a decade. We are pleased with this external recognition of our institution’s many strengths, including a world-class faculty, a superb student body, strong bar passage, and robust job placement.” App. 50.

with respect to his work requirements, his personal interactions, and his professional contributions.” As to Pless’s work contribution, Smith stated in part:

Although Dean Pless has achieved superb results for many years, his contributions this year to both [COL] and the University were particularly impressive. [COL] achieved a staggering improvement in the quality of its incoming class – advancing the median undergraduate GPA of its student body from a 3.6 to a 3.8. This breakthrough was achieved through careful use of scholarship funds and tireless recruiting in cities across the nation. . . . This achievement has already attracted favorable – indeed, *stunned* – commentary on websites devoted to law school admissions, and the benefits to [COL] in terms of its rankings, learning environment, and future job placement are expected to be considerable.

. . . .

Dean Pless also proved himself a great credit to his University, showing a high level of professionalism, integrity, and candor in relation to the investigation undertaken by the Illinois Admissions Review Commission. Indeed, the [ARC] specifically praised Dean Pless for his “forthright” efforts to defend the integrity of [COL’s] admissions process. Dean Pless’s ability to command the respect and confidence of the [ARC] has been invaluable to [COL] and to the University in the vital task of restoring public trust in admissions procedures.

App. 51.

Smith was similarly complimentary of Pless in describing his personal and professional contributions:

He has achieved a significant following (and considerable respect) for his helpful and frank responses to questions posed online by prospective law students. Indeed, it is not uncommon for students who matriculate at [COL] to say that Dean Pless’s candid and prompt attention helped seal their decision to attend.

. . . .

Dean Pless is also recognized by his peers as a leader in the field of law school admissions. He has played a leadership role within [LSAC], serving on its Services and Programs Committee, its Annual Meeting Planning Committee, its LL.M. Subcommittee, and its Misconduct and Irregularities in Admission Subcommittee. These memberships attest to his national leadership in the area of law school admissions across varied dimensions.

In concluding his nomination letter, Smith stated: “As I have said to our alumni, I do not think that there is a better admissions dean working at any U.S. law school than Dean Pless.”

**9. Class of 2013 (228 Students)**

**a. Median Goals**

With respect to the Class of 2013, COL's median LSAT goal was 167, and its median GPA goal was 3.75 (roundable to 3.8).

**b. Selectivity Data—Comparison of LSAC Data with Data Reported by COL**

**i. LSAT and GPA**

As illustrated by the chart below, with respect to this class, Duff & Phelps found discrepancies between the GPA data maintained by LSAC, on the one hand, and the GPA data reported by COL to the ABA and USNWR, on the other hand.<sup>33</sup> (COL reported Class of 2013 selectivity data to the ABA both in the 2010 ABA Questionnaire and in the 2010 Self Study.) With respect to these GPA discrepancies, Duff & Phelps also identified changes to data corresponding to individual students. (Duff & Phelps found no such discrepancies or changes with respect to LSAT data. The Class of 2013's median LSAT score, according to LSAC data, was 167.)

With respect to GPA data, as reflected in a spreadsheet that Pless used to track applicants and to compute the Class of 2013's median GPA, the GPAs of 31 students were changed. Each change was upward and, collectively, the changes increased the median GPA from 3.6, as provided for by LSAC data, to 3.75, which could be, and evidently was, rounded to 3.8 for reporting purposes. All of the 31 changes crossed the reported median of 3.75, and one of the changes crossed the reported 75<sup>th</sup> percentile of 3.9, thus increasing the 75<sup>th</sup> percentile GPA from 3.8, as provided for by LSAC data, to 3.9, and matching the 75<sup>th</sup> percentile GPA reported for the Class of 2012.

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<sup>33</sup> Smith signed the Dean's Certification Page as part of the ABA Questionnaire that COL submitted with respect to this class. App. 69.

## College of Law Graduating Class of 2013

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	0	0	0	0	0
GPA Discrepancy	31	0	31	1	0

LSAT <sup>g</sup>				GPA <sup>h</sup>		
LSAC	COL	ABA/USNWR		LSAC	COL	ABA/USNWR
163	163	163	25 <sup>th</sup> Pctl.	3.3	3.3	3.3
167	167	167	Median	3.6	3.8 (3.75)	3.8
168	168	168	75 <sup>th</sup> Pctl.	3.8	3.8	3.9

<sup>g</sup> iLEAP students do not take the LSAT test.

<sup>h</sup> In 2013, GPAs reported to one decimal place.

COL promoted Class of 2013 selectivity data through various means, including on its website and in marketing documents. In COL’s Fall 2010 E-Newsletter, for instance, Smith represented as follows: “This fall, [COL] welcomed its 228-member Class of 2013 – the most academically talented in [COL’s] history, with a median LSAT score of 167 (96th percentile) and a median GPA of 3.8.” The Fall 2010 E-Newsletter also promoted the number of applications submitted for the class: “Admission to the Class of 2013 was the most selective in [COL’s] history, with nearly 4,800 applicants –reflecting a 37 percent increase from the past admissions cycle.” App. 52.

### ii. Acceptance Rate Data

With respect to the Class of 2013, Duff & Phelps identified discrepancies between the acceptance rate data maintained by LSAC and the acceptance rate data reported by COL to the ABA and USNWR. The acceptance rate for this class, as provided for by LSAC data, was 25%. COL, however, reported data resulting in an acceptance rate of 20%.

As is the case with the Class of 2012, the disparity in these acceptance rate percentages arises from differences in the number of applications and the number of admissions offers upon which the percentages are based. Here, too, COL’s calculation was based on more applications and fewer admissions offers than provided for by LSAC data, thus giving the appearance that COL’s acceptance rate was lower, and that it was therefore more selective, than it in fact was.

According to the data maintained by LSAC, COL received 4,680 applications for the Class of 2013. COL, however, reported that it had received 4,833 (153 more) applications. LSAC data indicates that 1,175 applicants were extended admissions offers, while COL reported that 984 students (191 fewer) were admitted.

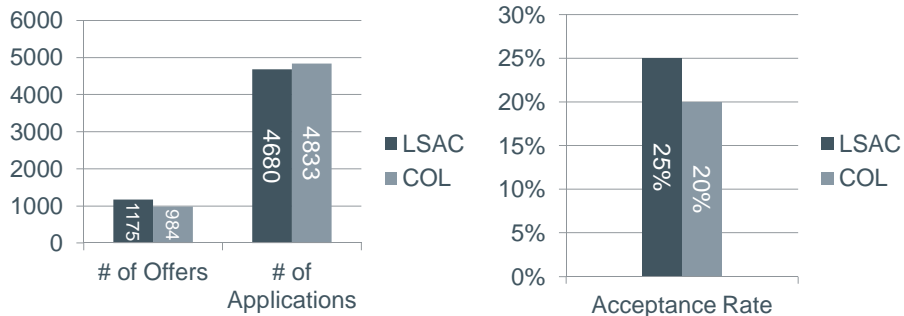
Duff & Phelps identified a spreadsheet that Pless may have used in computing COL’s acceptance rate figures for this class. App. 53. The total number of applicants on this spreadsheet is 4,768 (65 fewer than the 4,833 reported by COL). This number includes prospective transfer and advanced study students who were not applying for admission to the J.D. Class of 2013. Duff & Phelps has not identified any internal COL data that support the 4,833 figure.

This spreadsheet lists 984 applicants categorized as “all deposits paid” and “withdrew before deposit.” This is the same number that COL reported as the number of admissions offers for the Class of 2013. The spreadsheet, however, omits the following applicants who were admitted according to LSAC data:

- 20 applicants who deferred;
- 13 applicants who are identified as “withdrew after 1<sup>st</sup> deposit”;
- 20 applicants who “withdrew after all deposits”;
- 138 applicants LSAC categorizes as “withdrew before deposit,” indicating that they were admitted but declined their offers before paying a deposit. (COL incorrectly categorized these applicants as “withdrew before decision made,” indicating that they withdrew their applications before admissions decisions were rendered.)

The chart below illustrates Duff & Phelps’s acceptance rate findings for the Class of 2013:

### College of Law Graduating Class of 2013 Admission Statistics



2013	# of Offers	# of Applied	Acceptance Rate
LSAC	1,175	4,680	25%
Reported by COL	984	4,833	20%

*c. USNWR Ranking*

USNWR used COL's selectivity data for the Class of 2013 in connection with the 2012 Edition of USNWR's law school ranking, which it published in 2011. COL was ranked 23<sup>rd</sup> in this edition of USNWR's ranking (tied with Indiana University-Bloomington, University of California-Davis, and University of Notre Dame).

*d. Pless's Performance and Pay*

During the 2009-2010 academic year, Pless again explored the possibility of leaving COL for a similar position at another law school. In February 2010, he drafted a letter to an official at the University of Washington School of Law,<sup>34</sup> expressing his "genuine interest in working" there and emphasizing those aspects of his experience, accomplishments, and skill set that made him an attractive candidate:

I would welcome the opportunity to apply my strong technical, marketing and interpersonal skills at the University of Washington.

During my tenure at the University of Illinois, I have completely changed and revitalized the admissions process for [COL]. Through the use of statistical analysis and metrics [COL] has enjoyed remarkable increases in the credentials of the incoming class while achieving record levels of diversity. I extensively modified [COL's] scholarship system to ensure every scarce dollar is maximized to support our priorities. During my tenure at Illinois applications have doubled, the median LSAT of the incoming class has increased by 3 points, the median GPA has improved by .4, and the overall diversity of the incoming class has improved. Our last entering class was the largest and most qualified in the history of [COL]. For the past two years I have overseen our LL.M. admissions process and doubled the size of the incoming class, increasing revenue by \$1.4 million.

App. 54.

Smith understood that Pless had been in contact with the University of Washington, and also understood that Pless felt underpaid. On March 9, 2010, during a dinner at a Washington, D.C. restaurant following a recruiting event for applicants to the Class of 2013, Pless complained to Smith about his (Pless's) salary. In particular, Pless expressed his frustration that his relative contributions to COL were not adequately reflected in his salary level. Pless mentioned that COL's classes were improving, that he was performing work outside his job description (recruiting LL.M. applicants), and that his salary was less than that of counterparts at other law schools (e.g., Ohio State).

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<sup>34</sup> It is unclear whether Pless sent this letter to the University of Washington official.

Smith suggested that Pless prepare a proposal to support his request for a raise. In an email to Pless later that evening, Smith wrote:

When we get back to Champaign, we should meet to discuss in greater depth the issues we addressed at dinner. I hope it is clear that I am committed to recruiting and retaining the very best students, staff, and faculty members and to making sure that they feel respected and appreciated. I think that you would find my approach to these issues to be straightforward, receptive, and refreshing.

App. 55.

Pless did not follow through with the University of Washington, but Smith did follow through on his retention commitment as to Pless. Smith pursued and obtained a \$20,000 (18.76%) raise for Pless for 2010-2011, a year when there was no University salary increase program due to budget constraints. Smith commended Pless for his job performance and notified Pless of this raise in a September 20, 2010 letter:

As you know, the University decided again this year not to have a salary program for staff. Nonetheless, based on your exemplary achievements in the area of Admissions, and for purposes of external salary equity, your salary for 2010-11 has been increased to \$125,957.

You have accomplished much over the past two years, including: recruiting an academically outstanding and diverse student body; expanding the applicant pool to nearly 5,000 applicants; launching [COL's] signature iLEAP program; and participating in online conversations designed to disseminate accurate and candid information about law school admissions.

App. 56.

**10. Class of 2014 (184 Students)**

***a. Median Goals***

COL's 2011 Annual Report proclaimed that COL "plan[ned] to . . . admit yet another record incoming class . . ." App. 57 at 1. For the Class of 2014, COL set a median LSAT score goal of 168 and a median GPA goal of 3.8.

***b. Profile Enhancement Strategies***

According to one COL administrator, COL targeted the Class of 2014 as a "push year." In particular, COL made the strategic decision to invest significant scholarship funds in the class while enrolling a relatively small class and thereby foregoing the tuition revenue that additional class members would represent. By these means, COL hoped to use sizable scholarship offers (guaranteed throughout the students' law school careers) both to sway highly-credentialed

applicants away from competitor schools and to avoid having to enroll the dozens of lesser-credentialed applicants who might have otherwise occupied spaces in the class.

The 2011 Annual Report described the strategy to improve the incoming class's academic credentials by increasing scholarship awards:

In 2011-12, [a surplus] balance and other strategic reserves will be aggressively deployed, permitting [COL] to make a significant commitment to financial assistance, helping enhance – in an unprecedented manner – the profile of its incoming J.D. class. In addition to increased financial assistance, [COL] has been able to commit to the incoming Class of 2014 that it will not raise their tuition rate in their second or third years of law school. At a time of increasingly acute concern with the affordability of law school, this commitment has furnished us with considerable comparative advantage over other schools in recruiting top-notch students.

App. 57 at 5.

COL in fact offered scholarships to all students accepted into the Class of 2014, and, indeed, overspent its scholarship budget by \$200,000. COL also made good on the strategy to reduce the size of the class, despite the adverse revenue consequences, ultimately enrolling a class of 184 students, down from 228 the previous year.

*c. Selectivity Data (as Reported/Disseminated by COL)*

COL has not yet reported any Class of 2014 selectivity data to the ABA or USNWR. COL's submission to the ABA is currently due on November 7, 2011. COL did, however, disseminate certain class selectivity statistics through various means. Specifically, COL publicly announced the median LSAT score and GPA for the class as 168 and 3.81, respectively. *See, e.g.,* App. 58. The Fall 2011 issue of the COL E-Newsletter hailed an “unprecedented” incoming class: “This past week, we welcomed to campus our incoming J.D. Class of 2014, the most selective, most academically distinguished, and most diverse class in [COL's] history. Selected from almost 4,400 applicants, the 184-member Class of 2014 features a median LSAT of 168 (96th percentile) and a median GPA of 3.81.” App. 59.

On August 22, 2011, Pless briefed COL faculty on the Class of 2014, using a PowerPoint presentation. App. 60. The presentation included the following slide comparing the Class of 2014 with the Class of 2013:

## Class of 2013 Vs. Class of 2014

### Class of 2013

- 75% LSAT - 168
- Median LSAT – 167
- 25% LSAT – 163
- 75% GPA – 3.9
- Median GPA – 3.8
- 25% GPA – 3.3

### Class of 2014

- 75% LSAT - 169
- Median LSAT – 168
- 25% LSAT – 164
- 75% GPA – 3.9
- Median GPA – 3.81
- 25% GPA – 3.61

In a separate slide, Pless demonstrated the increases in median LSAT scores and median GPAs of the Classes of 2005 through 2014:



Pless's August 2011 report to the faculty also showed that the Class of 2014's academic credentials were on par with, if not better than, those of classes at other top law schools:

## Comparative Medians

Class of 2013 Medians			
USNWR	School	LSAT	GPA
1	Yale University	173	3.91
2	Harvard University	173	3.89
3	Stanford University	170	3.88
4	Columbia University	172	3.72
5	University of Chicago	171	3.78
6	New York University	172	3.71
7	University of Michigan	169	3.73
7	University of Pennsylvania	170	3.8
9	University of California - Berkeley	167	3.8
9	University of Virginia	170	3.85
11	Duke University	170	3.8
12	Northwestern University	170	3.7
13	Cornell University	168	3.7
14	Georgetown University	170	3.67
14	University of Texas - Austin	167	3.71
16	University of California - Los Angeles	168	3.77
16	Vanderbilt University	169	3.72
18	University of Southern California	167	3.64
18	Washington University	167	3.7
20	George Washington University	167	3.79
20	University of Minnesota	167	3.71
22	Boston University	166	3.7
23	Indiana University - Bloomington	164	3.78
23	University of Illinois	167	3.8
23	University of Notre Dame	167	3.57
27	University of Iowa	161	3.59

### Schools that have reported 2014 Medians

- Duke 170/3.75
- UCLA 168/3.78
- Vanderbilt 169/3.78
- USC 167/3.7
  
- Tied for 14<sup>th</sup> on Median LSAT
- 5<sup>th</sup> on Median GPA

In an email to Pless on August 26, 2011, former Dean Hurd, still on the faculty at COL, congratulated Pless on the Class of 2014 and pointed out Pless’s distinct contribution to COL’s key strategic objective of further enhancing its national standing:

Unbelievably impressive stats for this year’s class. Unbelievably fabulous. Can’t tell you how great it is to be teaching students who are smarter than the best students we were used to teaching at Penn those years ago. It’s a great gift to the school and to us, as faculty. And it’s all YOU. Yea, yea, others help, but without YOU this would not have happened. Not a chance. YOU are the reason this school will rise in the rankings, rise in national esteem, and rise on the merits beyond all other reasons.

App. 61.

**d. Comparison of LSAC Data with Data Disseminated by COL**

**i. LSAT and GPA**

As illustrated by the chart below, with respect to this class, Duff & Phelps found discrepancies between the LSAT and GPA data maintained by LSAC, on the one hand, and the LSAT and GPA data publicly disseminated by COL, on the other hand. With respect to both LSAT and GPA discrepancies, Duff & Phelps identified changes to data corresponding to individual students. These changes are reflected in spreadsheets that Pless evidently used to calculate the final class medians (“2014 Spreadsheets”). App. 62. A comparison of student LSAT scores and GPAs, as provided by LSAC data, with student data that Pless maintained in

the 2014 Spreadsheets and related “Dashboard” reports revealed that the majority of students in this class had changes to their LSAT scores and/or GPAs.<sup>35</sup>

Specifically, of the 184 students in the class, 109 had changed LSAT scores and 58 had changed GPAs. And of the 109 changed LSAT scores, 41 crossed the announced median of 168; of the 58 changed GPAs, 26 crossed the announced median of 3.81.

### College of Law Graduating Class of 2014

Student-level detail vs. LSAC	Total Discrepancies	Crosses 25 <sup>th</sup> Percentile	Crosses Median	Crosses 75 <sup>th</sup> Percentile	No Percentile Crossed
LSAT Discrepancy	109	63	41	14	31
GPA Discrepancy	58	43	26	18	3

LSAT				GPA		
LSAC	COL	U of I <sup>1</sup>		LSAC	COL	U of I <sup>1</sup>
156	164	164	25 <sup>th</sup> Pctl.	3.38	3.61	3.61
163	168	168	Median	3.70	3.81	3.81
168	169	169	75 <sup>th</sup> Pctl.	3.85	3.90	3.90

<sup>1</sup>ABA data has not yet been reported. Data was obtained from U of I internal report.

In its analysis, Duff & Phelps identified certain patterns to the changes made to student LSAT scores and GPAs. For example, all iLEAP students and international students were incorrectly assigned GPAs of 4.0. According to ABA criteria, no GPAs should have been assigned to international students, and the actual GPAs of the iLEAP students should have been used to calculate the class’s median GPA. In addition, as illustrated by the chart below, the 58 GPA changes were each to one of five higher GPAs: 4.0, 3.87, 3.81, 3.62, or 3.61. These changes, collectively, had the effect of increasing the median to 3.81, and increasing the 25<sup>th</sup> percentile GPA to 3.61, and the 75<sup>th</sup> percentile GPA from 3.85 to 3.90.

<sup>35</sup> Though they bear the same name, Pless’s Dashboard reports are different from the Dashboard system that the Career Office used for job placement data.

GPA Discrepancies Result in 5 Values  
Class of 2014

College of Law Internal GPA	Total Students with GPA	GPA Discrepancy	Matched LSAC GPA	Percent Showing Discrepancy
4.00	24	21	3	87.5%
3.87	5	4	1	80.0%
3.81	17	13	4	76.5%
3.62	13	12	1	92.3%
3.61	9	8	1	88.9%
<b>Total</b>	<b>68</b>	<b>58</b>	<b>10</b>	<b>85.3%</b>
<b>58 Discrepancies for 184 Students (31.5% of Students) Move to 5 GPAs</b>				

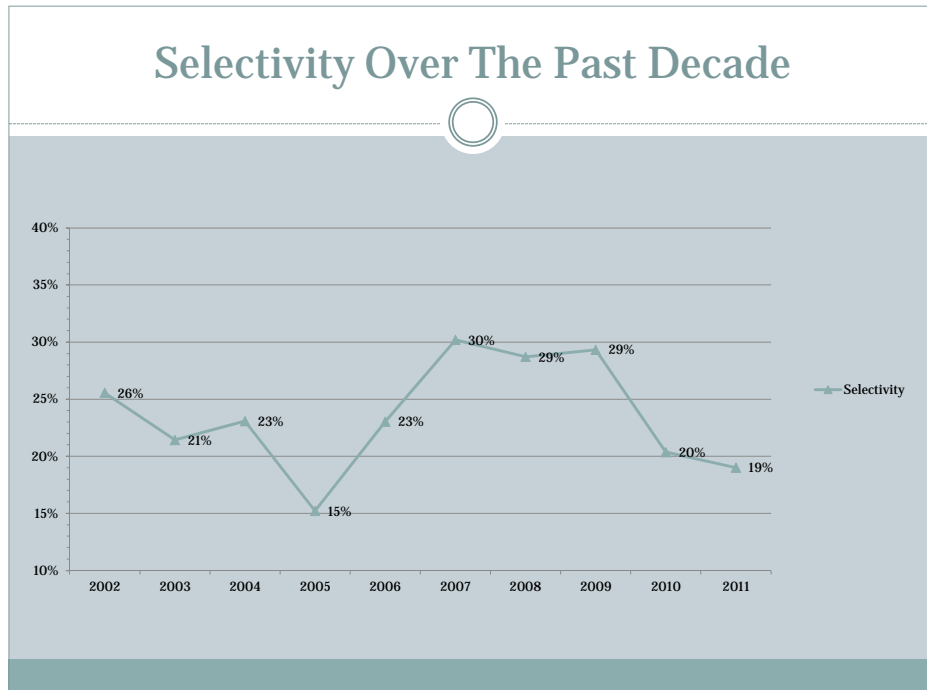
Reported Median: 3.81 / Q1: 3.61 / Q3: 3.90 (3.87 using U of I ILEAP GPAs)

The vast majority of the 109 LSAT score changes were to scores that affected the 25<sup>th</sup> percentile, median, and 75<sup>th</sup> percentile LSAT figures for the class. Sixty-three of these changes crossed the announced 25<sup>th</sup> percentile, 41 crossed the announced median, and 14 crossed the announced 75<sup>th</sup> percentile.

There were also changes to LSAT scores that did not affect any of these figures. These changes were to scores that were below the 25<sup>th</sup> percentile, as indicated by LSAC data—while the changes did not cross the 25<sup>th</sup> percentile, they did make these comparatively low scores seem higher than they in fact were. According to LSAC data, 62 out of the 184 students in the class had LSAT scores below 160. Most of these scores were changed to higher scores, such that, in the 2014 Spreadsheets, only 16 students in the class appeared to have scores lower than 160.

**ii. Acceptance Rate Data**

In the PowerPoint that he used during his presentation to COL faculty on August 22, 2011, Pless represented that there were 4,377 applicants for the Class of 2014, and that COL extended 837 admissions offers, resulting in an acceptance rate of 19% (one percentage point improved from the prior year). App. 60. This PowerPoint included the following slide that tracked COL’s acceptance rates from 2002 to 2011 (Classes of 2005 through 2014).



According to data maintained by LSAC, there were 4,219 applicants to the Class of 2014 (or 158 fewer than Pless claimed), and 853 admissions offers extended (or 16 more than Pless claimed), for an acceptance rate of 20% (1% more than Pless claimed). The difference between the 837 offers reported by Pless and the 853 offers derived from the LSAC data appears to be explained by the omission of 17 students from LSAC’s list of accepted students. These students are alphabetically the first 17 students who “withdrew before deposit” in the list of admitted students. (One student was included twice in the list of accepted students, resulting in 836 unique students—17 students short of 853.)

*e. USNWR Ranking*

COL has yet to submit Class of 2014 selectivity data to USNWR. These data, once reported, will be factored into the 2013 Edition of the USNWR’s law school ranking, to be published next year.

*f. Pless’s Job Performance and Pay*

In a June 27, 2011 email to Pless, Smith advised Pless that he would be “sharing [the following praise of Pless] with the Provost as part of [COL’s] 2010-11 annual report.”

Through expansive and energetic recruiting efforts and the acumen of [COL’s] Assistant Dean for Admissions, Paul Pless, [COL] once again secured a record-breaking class of incoming students – this, despite a reduced pool of law school applicants. The entering Class of 2014 is projected to be the most academically talented in the history of [COL], with a median LSAT score of 168 (96<sup>th</sup> percentile) and a median undergraduate GPA of 3.8. The class is also expected to

be the most diverse in [COL's] history. (By way of comparison, we anticipate that the Class of 2014 at [COL] will surpass the incoming class at the University of California, Berkeley – the nation's 9<sup>th</sup>-ranked law school – in terms of both academic qualifications and diversity.) Roughly 80 LL.M. students will give [COL] its most international student body in history.

App. 63.

In an August 4, 2011 letter, Smith advised Pless that his “FY12 salary w[ould] be \$130,051, reflecting a merit increase of 3.25%,” and expressed his appreciation for Pless’s “thoughtful, impassioned, and highly effective leadership of [COL’s] admissions and financial aid efforts, as well as [his] wise counsel and commitment to [his] *alma mater*.” App. 64.

**C. Pless’s Explanations for LSAT and GPA Discrepancies**

**1. Class of 2014**

With respect to the Class of 2014, Pless contends that, in or about May 2011, he may have committed inadvertent sorting and cutting-and-pasting errors while using spreadsheets to handle applicant information, and that these errors may have resulted in LSAT and GPA data of certain higher-credentialed applicants being associated with other, lesser-credentialed applicants. According to Pless, these possible errors then may have carried forward through the end of the recruiting season such that he never discovered them, even in the course of computing the final median values for the class.

As shown below, Pless’s explanation is contrary to the results of forensic analysis conducted as part of this investigation.

***a. Admissions Office Spreadsheets***

For the Class of 2014, Duff & Phelps was able to track LSAT score and GPA discrepancies through Pless’s Dashboard reports. Pless maintained a separate final Dashboard report for each COL class. Generally, Pless used the information in the Dashboard report to compute class statistics on an ongoing basis, which he then communicated internally (e.g., to the COL Dean). Once a class was finalized, Pless used the Dashboard reports to communicate this profile information to the ABA, USNWR, and other third parties.

Notably, Pless did not maintain unique copies of Dashboard reports as they were updated throughout the year with additional information relating to COL applicants. Instead, each successive Dashboard report overwrote the preceding report. Because of this practice, this investigation was only able to identify a final Dashboard report for each year and a few other Dashboard reports from points during some years—usually when they were embedded in emails.

Dashboard reports were Excel files with multiple tabs each containing data on individual COL applicants maintained in a table or spreadsheet format. Dashboards were derived from applicant data that the Admissions Office administrative staff extracted from LSAC’s CAS

database and sent to Pless in the form of Paul's Daily Report, as described above. Dashboard tabs sometimes varied but usually were as follows:

- **“Summary”**: This tab includes a series of tables setting forth aggregate profile data (e.g., GPA, LSAT score, ethnicity, contact information, admission status),<sup>36</sup> relating to the applicants contained in the other Dashboard tabs.
- **“Data”**: This tab contains profile data on the thousands of applicants to COL.
- **“Admits”**: This tab includes profile data on each applicant admitted to the entering class.
- **“Deposits”**: This tab includes profile data on each student who made the first deposit to secure a place in the class (due on April 20, 2011 for the Class of 2014).
- **“2 Deposits”**: This tab includes profile data on each admitted applicant who made the second deposit to secure a place in the class (due June 1, 2011 for the Class of 2014).

Some versions of the Dashboard also include a tab titled “Waitlist,” which contains the profile data of the students who were waitlisted.

In the ordinary course, the Dashboard was initially populated with applicant profile data in the fall, once applications were submitted. The Dashboard was continually updated thereafter with information received from LSAC (e.g., new LSAT scores or grades) and internally. Information received from LSAC (e.g., GPA, LSAT and ethnicity data) was not to be altered by law schools.

The following is an example of tables contained in a Dashboard Summary tab:

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<sup>36</sup> The admission status included categories for applicants who were admitted (“first deposit paid,” “all deposits paid,” “withdrew before deposit,” and “defer”), waitlisted, and denied.

29	Admits Profile				
30	Total Admits	837		ED Applicants	0
31				Why Illinois?	444
32				Character & F	120
33					
34	Demographics			LSAT Breakdown	
35	Residents	209	25%	170+	219
36	Female	363	43%	169	91
37	Male	474	57%	168	117
38	Black/African American	113	14%	167	69
39	Hispanic/Latino	63	8%	166	24
40	Asian	109	13%	165	59
41	Caucasian/White	489	58%	164-160	149
42	American Indian/Alaskan Native	8	1%	159-155	76
43	No Authorization to release	0	0%	154-	20
44					
45					
46	Median LSAT	168		GPA Breakdown	
47	Median GPA	3.8		3.8+	421
48					
49	Deposited Student Profile				
50	Total Admits	244		ED Applicants	0
51	1st Deposit	0		Why Illinois?	132
52	All Deposits	184		Character & F	33
53					
54	Demographics			LSAT Breakdown	
55	Residents	103	42%	170+	31
56	Female	109	45%	169	25
57	Male	135	55%	168	40
58	Black/African American	30	12%	167	10
59	Hispanic/Latino	33	14%	166	4
60	Asian	36	15%	165	24
61	Caucasian/White	129	53%	164-160	20
62	American Indian/Alaskan Native	4	2%	159-155	20
63	No Authorization to release	0	0%	154-	12
64					
65			# in Calc.		
66	Median LSAT	168	182	GPA Breakdown	
67	Median GPA	3.8	194	3.8+	102

The information contained in this Summary tab is derived from embedded mathematical formulas that draw upon the data contained in the other tabs. For example, the Admits Profile table on the Summary tab contains an embedded median formula that calculates the median GPA and LSAT for all students in the “Admits” tab.<sup>37</sup> Likewise, the LSAT and GPA median on the Summary tab table entitled “Deposit Student Profile” should have an embedded formula which calculates that information by drawing on the data in the “Deposits” tab.

The Dashboard Summary tab summarizes the current status of each incoming class on an ongoing basis and was at times distributed, without the supporting tabs, by Pless to COL leadership, including Smith.

<sup>37</sup> Pless used Excel’s median formula to generate these calculations.

**b. Disabling Excel Median Formula and Hard-coding of 2014 Dashboards**

**i. April 14<sup>th</sup> Dashboard Report (Median Formula)**

On April 14, 2011, the Assistant Director for Admissions emailed Pless a copy of the then-current Dashboard report (“April 14<sup>th</sup> Dashboard Report”) at Pless’s request. App. 65. This file had last been modified on April 13, 2011. The Dashboard Summary tab tables were calculated using the embedded median formulas. The “Deposited Student Profile” table within this tab was as follows:

**April 14<sup>th</sup> Dashboard Report (Median Formula)**

Deposited Student Profile					
57	Total Admits	59		ED Applicants	0
58	1st Deposit	31		Why Illinois?	26
59	All Deposits	28		Character & F	5
60					
61	Demographics			LSAT Breakdown	
62	Residents	33	56%	170+	4
63	Female	31	53%	169	1
64	Male	28	47%	168	4
65	Black/African American	7	12%	167	2
66	Hispanic/Latino	6	10%	166	3
67	Asian	9	15%	165	2
68	Caucasian/White	33	56%	164-160	13
69	American Indian/Alaskan Native	0	0%	159-155	12
70	No Authorization to release	0	0%	154-	6
71					
72			# in Calc.		
73	Median LSAT	161	47	GPA Breakdown	
74	Median GPA	3.8	59	3.8+	39

Based on median formula

While most of the data contained in the April 14<sup>th</sup> Dashboard Report were drawn from the LSAC database, it already contained incorrect data. This report, for instance, incorrectly indicated that each and every iLEAP student had a GPA of 4.0:

	A	B	C	Z	AA	AB	AC
1	Last Name	First Name	Status	GPA	App Date	Scholarship	School
402	Student		1 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
403	Student		2 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
404	Student		3 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
405	Student		4 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
406	Student		5 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
407	Student		6 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
408	Student		7 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
409	Student		8 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
410	Student		9 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
411	Student		10 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
412	Student		11 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
413	Student		12 All Deposits Paid	4.00	9/23/2010	16500.00	UNIVERSITY OF ILLINOIS - URBANA
4210							

During an interview with investigators, Pless stated that he put the 4.0 GPAs into the Dashboard for the iLEAP students as “placeholders,” which he forgot to update later with the students’ correct GPAs. Pless did not provide an explanation as to why placeholders were used for these Urbana-Champaign undergraduate students instead of the students’ real GPAs, which were readily accessible. According to Pless, this was one of multiple inadvertent errors that he made in compiling LSAT and GPA data for the Class of 2014. All the other student profile data contained in the tabs of the April 14<sup>th</sup> Dashboard Report are consistent with LSAC data.

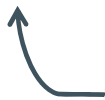
By putting in placeholders, Pless knew that statistics he was distributing to Smith and others through the Dashboard Summary reports were being calculated using some incorrect GPAs. In particular, the Summary tab on the April 14<sup>th</sup> Dashboard Report indicated that the 59 admitted applicants who had paid deposits by that time (captured in the “Deposited Student Profile” table) had a median LSAT score of 161 and a median GPA of 3.8. (First deposits were due on April 20, 2011.)

**ii. May 1<sup>st</sup> Dashboard Report (Median Formula)**

Duff & Phelps identified and reviewed a separate Dashboard report last modified on May 1, 2011 (“May 1<sup>st</sup> Dashboard Report”), which was recovered from Pless’s computer hard drive. App. 66. Like the April 14<sup>th</sup> Dashboard Report, this report used an embedded Excel median formula to determine the median LSAT and GPA values. As shown below, the “Deposited Student Profile” table within this Dashboard’s Summary tab indicated that the 148 admitted applicants who had by then paid deposits had a median LSAT score of 165 and a median GPA of 3.7.

### May 1<sup>st</sup> Dashboard Report (Median Formula)

56 Deposited Student Profile					
57	Total Admits	148		ED Applicants	0
58	1st Deposit	110		Why Illinois?	77
59	All Deposits	38		Character & F	21
60					
61	Demographics			LSAT Breakdown	
62	Residents	60	41%	170+	24
63	Female	59	40%	169	12
64	Male	89	60%	168	23
65	Black/African American	16	11%	167	5
66	Hispanic/Latino	22	15%	166	3
67	Asian	23	16%	165	7
68	Caucasian/White	78	53%	164-160	29
69	American Indian/Alaskan Native	2	1%	159-155	24
70	No Authorization to release	0	0%	154-	9
71					
72			# in Calc.		
73	Median LSAT	165	136	GPA Breakdown	
74	Median GPA	3.7	148	3.8+	71



Based on median formula

### iii. May 20<sup>th</sup> Dashboard Report (Hard-coded)

Duff & Phelps also identified and reviewed a later version of a Dashboard for the Class of 2014, last modified on May 20, 2011 (“May 20<sup>th</sup> Dashboard Report”). App. 67. This version, created approximately one month after first deposits were due, no longer employed the embedded Excel median formula to arrive at the median LSAT score and median GPA of the 179 admitted applicants who had by then paid deposits. Rather, by this time, a median LSAT score of 168 and a median GPA of 3.8 for these applicants (as set forth in the “Deposited Student Profile” table of the Summary tab) had been hard-coded into the Summary tab. In other words, the median figures were no longer being calculated automatically by application of an Excel mathematical formula linked to student data, but were instead fixed at the specified values and disconnected from any underlying student data.

## May 20<sup>th</sup> Dashboard Report (Hard-coded)

Deposited Student Profile					
57	Total Admits	179		ED Applicants	0
58	1st Deposit	94		Why Illinois?	93
59	All Deposits	85		Character & F	22
60					
61	Demographics			LSAT Breakdown	
62	Residents	78	44%	170+	27
63	Female	76	42%	169	25
64	Male	103	58%	168	40
65	Black/African American	20	11%	167	6
66	Hispanic/Latino	27	15%	166	4
67	Asian	26	15%	165	8
68	Caucasian/White	94	53%	164-160	20
69	American Indian/Alaskan Native	3	2%	159-155	20
70	No Authorization to release	0	0%	154-	12
71					
72			# in Calc.		
73	Median LSAT	168	166	GPA Breakdown	
74	Median GPA	3.8	176	3.8+	93

Hard-coded medians

Had the May 20<sup>th</sup> Dashboard Summary tab been tied to the underlying student data derived from LSAC, it would have indicated that, as of that date, the LSAT and GPA medians of the applicants who had by then paid deposits were 164 and 3.7, respectively, not 168 and 3.8 as reflected in the hard-coded May 20<sup>th</sup> Dashboard.

The above suggests that the hard-coding of the deposited students' median GPA and LSAT scores evidenced in the May 20<sup>th</sup> Dashboard Report may have taken place between May 1 and May 20—in the days or weeks following the date on which first deposits for the Class of 2014 were due (i.e., April 20, 2011). It is then that the first indications of the class's academic profile would have emerged and that Pless would have recognized the extent to which the class was already at risk of failing to meet the year's LSAT and GPA goals. Hard-coding median values with a few months left in the recruiting season concealed the true state of affairs from others who were provided with information from the Dashboard Summary tabs (or the Dashboard Summaries themselves) around this time, and afforded time to close the gap between the true credentials and the COL goals—here the gap was closed not through enrolling students with credentials strong enough to offset the lower-credentialed applicants who had initially paid deposits, but through numerous changes to individual LSAT scores and GPAs.

### iv. August 18<sup>th</sup> Dashboard Report (Median Formula)

Orientation for the 184 members of the Class of 2014 commenced on August 17, 2011, and the class's median LSAT score and GPA were publicly announced shortly thereafter as 168 and 3.81, respectively. These were almost the exact figures that had been hard-coded into the May 20<sup>th</sup> Dashboard Report's Summary tab. App. 67.

Duff & Phelps identified a fourth Dashboard report for this class, this one last modified on August 18, 2011 (“August 18<sup>th</sup> Dashboard Report”). App. 68. The median values as determined by the August 18<sup>th</sup> Spreadsheet (168 and 3.81) were those that COL publicly announced and were thus appreciably higher than the median values set forth in the May 1<sup>st</sup> Dashboard Report (165 and 3.7), which contained the Excel median formula. It should be noted that 23 students who joined the class were admitted off the waitlist between May 20, 2011 and August 18, 2011. These students had a median LSAT score of 165 and a median GPA of 3.68.

### August 18<sup>th</sup> Dashboard Report (Median Formula)

2nd Deposit Student Profile		11/4/2011 17.09				
85	Total Admits	184				
86	1st Deposit					
87	All Deposits					
88						
89	Demographics		LSAT Breakdown			
90	Residents	91	49%	170+ 21		
91	Female	86	47%	169 23		
92	Male	98	53%	168 45 89		
93	Black/African American	24	13%	167 6 83		
94	Hispanic/Latino	28	15%	166 3		
95	Asian	25	14%	165 23		
96	Caucasian/White	94	51%	164-160 35		
97	American Indian/Alaskan Native	3	2%	159-155 10		
98	No Authorization to release	0	0%	154- 6		
99						
100		# in Calc.				
101	Median LSAT	168	171			
102	Median GPA	3.81	185			
103						
104						
105	Gross Revenue	\$ 7,091,000	Complete ABA Profile			
106	Gross Scholarship	\$ 3,754,523	75th%	Median	25th%	
107	Net Revenue	\$ 3,336,477	LSAT	169	168	164
108	Average Net Tuition	\$ 18,133	GPA	3.90	3.81	3.61
109	Average Scholarship	\$ 20,405				

Based on median formula

With the August 18<sup>th</sup> Dashboard Report, the application of the Excel median formula to the underlying data for the 184 now-enrolled students resulted in an LSAT median score of 168 and a median GPA of 3.81 for the class. Hard-coding, in other words, was no longer necessary for the Summary tab to reflect these figures in the “2<sup>nd</sup> Deposit Student Profile” table.<sup>38</sup> This is so because, by this time, the GPAs and LSAT scores of these students, which the Admissions Office had received from LSAC, had been changed. Specifically, the August 18<sup>th</sup> Dashboard Report contains the 109 changes to individual LSAT scores and the 58 changes to individual GPAs described above. Those changes to student data provided a data foundation to support (inaccurately) the inflated median figures that had been hard-coded months earlier, as evidenced by the May 20<sup>th</sup> Dashboard Report.

### v. September 2<sup>nd</sup> Dashboard Report (Median Formula)

The fifth Dashboard report for the Class of 2014 that Duff & Phelps identified and reviewed was last modified on September 2, 2011 (“September 2<sup>nd</sup> Dashboard Report,” reprinted below). As with the August 18<sup>th</sup> Dashboard Report, the application of the Excel median formula

<sup>38</sup> Because of the later date, second deposits have been paid by all students in the enrolling class.

to the underlying, changed student-level data gave the appearance that the class had a median LSAT score of 168 and a median GPA of 3.81. App. 70.

September 2<sup>nd</sup> Dashboard Report (Median Formula)

2nd Deposit Student Profile				
Total Admits	184			
1st Deposit				
All Deposits				
Demographics		LSAT Breakdown		
Residents	91 49%	170+	21	
Female	86 47%	169	23	
Male	98 53%	168	44 88	
Black/African American	24 13%	167	6 83	
Hispanic/Latino	28 15%	166	3	
Asian	25 14%	165	23	
Caucasian/White	94 51%	164-160	35	
American Indian/Alaskan Native	3 2%	159-155	10	
No Authorization to release	0 0%	154	6	
	# in Calc.			
Median LSAT	168	171		
Median GPA	3.81	185		
Complete ABA Profile		75th%	Median	25th%
LSAT		169	168	164
GPA		3.90	3.81	3.61

Based on median formula

Examples of some of the changed LSAT scores and GPAs of students in the Class of 2014 are listed below:

COL LSAT	LSAC LSAT	COL GPA	LSAC GPA
156	146	3.75	3.75
156	146	3.87	3.50
156	147	4.04	4.04
157	149	3.93	3.93
152	150	3.75	3.75
157	150	3.81	3.61
157	150	3.83	3.83
151	151	3.61	2.89
157	151	4.00	
158	151	4.00	
159	152	3.69	3.69
159	152	3.81	3.81
160	153	3.81	3.41
160	153	4.00	
160	153	3.87	3.42
161	153	4.00	4.00
161	153	3.93	3.93
162	154	3.72	3.72
162	154	3.83	3.83

The hard-coding of specified median values (i.e., the de-linking of the embedded Excel median formulas from the underlying student data) around the time when deposits were due (i.e., when the credentials of the Class of 2014 began to emerge) is at odds with Pless's explanation that the changed LSAT scores and GPAs may have resulted from inadvertent sorting and/or cut-and-paste errors. If the embedded formulas had remained linked to the underlying data, the actual medians of applicants who had paid deposits would have been known to those who received information from Pless's Dashboard updates, including Smith. Instead, the hard-coding of the inflated median values gave the appearance that the class was on track to meet that year's goals—a median LSAT score of 168 and a median GPA of 3.8.

Between the time of the hard-coding and the publication of final class statistics, the LSAT and GPA scores of well over 100 students were altered. These changes were exclusively upward and clearly strategic, insofar as they produced medians of 168 and 3.81 and also increased the quartile marks. It appears that the Excel median formulas were re-connected to the underlying data in the Dashboard reports after the changes were made. This sequence of events is strongly suggestive of deliberate conduct on Pless's part, even putting aside the equally strategic, though fewer, changes to student-level data made in the three preceding years.

## **2. Classes Preceding the Class of 2014**

With respect to classes preceding the Class of 2014, Pless provided the following explanations for the discrepancies that Duff & Phelps had identified between the GPA and LSAT data maintained by LSAC and the data that Pless maintained and used as the basis for calculating LSAT and GPA statistics.

- He removed from all LSAT calculations any tests taken under accommodated conditions<sup>39</sup>;
- He removed LSAC reported GPAs for all international students, explaining that sometimes these GPA scores were for community college courses that should not be considered;
- He updated all GPAs of students whose GPAs, as indicated by LSAC data, were not based on the students' final transcripts. (Pless stated that COL required all entering students to submit final transcripts and that approximately one-third of each class was comprised of students who were applying to COL while still at an undergraduate college and who therefore did not have a final transcript at the time they were admitted.)

Duff & Phelps analyzed Pless's explanations in light of the relevant underlying student data. The results of this analysis are set forth below.

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<sup>39</sup> Law school applicants with certain disabilities are able to request that certain types of accommodations be made when they take the LSAT test. These accommodations include such things as being given extra time to complete the test and being provided with a test with larger print or in Braille. The accommodation process is explained in detail on LSAC's website. See <http://www.lsac.org/jd/lsat/accommodated-testing.asp>.

*a. Accommodated Tests*

Duff & Phelps’s analysis revealed that Pless did not, in fact, remove from his LSAT calculations tests that were taken under accommodated conditions. Indeed, based on the spreadsheets that he appears to have used to make these calculations, he included in his calculations the scores of all students who took LSAT tests, accommodated or not.<sup>40</sup>

Moreover, even if Pless had removed accommodated test scores from his LSAT calculations, the true, LSAC-based median LSAT scores for the Classes of 2011 and 2012 would still have been short of the medians that Pless calculated and caused COL to report and disseminate. In this regard, in accordance with the ABA’s instructions on the matter, Duff & Phelps reviewed the LSDAS reports for each student in these classes to determine whether the report contained a “score band,” “percentage rank,” or “index calculation associated with” the student’s LSAT score(s). App. 3 at 2. The absence of this information indicates that the test at issue was taken under accommodated conditions.<sup>41</sup>

Based on this review, Duff & Phelps determined that eight students who enrolled at COL between 2007 (Class of 2010) and 2011 (Class of 2014) took an LSAT under accommodated conditions: one in the Class of 2010, three in the Class of 2011, three in the Class of 2012, and one in the Class of 2013. In all of these years, the LSAT quartiles and medians that the College reported and disseminated were unaffected by removing the accommodated scores from the quartile and median calculations.<sup>42</sup>

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<sup>40</sup> None of the students who had their LSAT scores changed (Classes of 2011, 2012, and 2014) took an accommodated LSAT test.

<sup>41</sup> Because the ABA’s instructions counsel law schools to “exclude the matriculant,” rather than the “test score” from class quartile and median calculations, it is somewhat unclear whether GPAs of accommodated test-takers are also to be excluded from such calculations. Because the relevant ABA instruction appears after the categorization “Accommodated test scores,” and provides specific guidance as to how to identify such scores, and because the ABA Questionnaire elsewhere provides specific guidance as to GPAs but does not do so here, the investigators interpret the instruction as requiring the removal only of accommodated test scores. In addition, the instructions seem designed to implement, and are consistent with, the LSAC Cautionary Policies regarding accommodated tests, which preclude averaging accommodated test scores with scores from tests taken under standard conditions. App. 2.

<sup>42</sup> If the GPAs of accommodated LSAT takers were removed from the GPA calculations for the Class of 2011, that class’s median GPA would change by one-hundredth of a grade point—from 3.55 to 3.54.

## Summary of Testing Accommodation

Class of	Number of Accommodated Test Takers	LSAT/GPA at or Above 25 <sup>th</sup> Percentile	LSAT/GPA at or Above Median	LSAT/GPA at or Above 75 <sup>th</sup> Percentile	Reporting Affected
2010	1	1/1	0/0	0/0	No
2011	3	0/0	0/1	1/1	GPA Only
2012	3	0/1	0/1	2/0	No
2013	1	0/0	1/0	0/1	No

### *b. International Students' GPAs*

With respect to Pless's claim that he removed GPAs of international students in performing GPA calculations, Duff & Phelps analyzed the relevant GPA data reported by COL and the related LSAC data for the Classes of 2006, 2008, 2010, 2011, 2012, and 2013. Based on this analysis, Duff & Phelps determined the following:

- In the Classes of 2006 through 2011, there were between three and seven international students each year. In all cases, the student GPAs, as provided by LSAC data, matched the GPAs in the internal COL records. The GPAs were used by Pless in his calculation of these classes' percentile and median values.
- In the Class of 2012, there were seven international students. Of these students, six had GPAs listed in the LSAC database and one did not. The GPAs of these six international students were used by Pless in calculating the class's quartile and median GPA values.
- In the Class of 2013, there were eight international students. Of these students, six had GPAs listed in the LSAC database and two did not. The GPAs of these six international students, including one that was changed from 3.57 to 3.75, were used by Pless in calculating the class's quartile and median GPA values.

In short, Duff & Phelps found no support for Pless's claim that he did not include GPAs of international students in calculating GPA values for any class. In any case, these values would not have changed had Pless in fact not included international students' GPAs in his calculations.

### *c. Updated GPAs Based on Final Transcripts*

With respect to Pless's claim that he relied upon the final transcripts of students in calculating the median GPAs for COL classes, it should be noted that this practice, even if assumed to have occurred, is contrary to the ABA's instructions. The ABA Questionnaire

directs law schools to “[u]se the cumulative Grade Point Average provided by the LSAC on the LSDAS reports when calculating the answers to Question 1D” (i.e., the question requesting LSAT and GPA information). App. 3 at 2. Using LSAC-provided data, even if it does not include final transcripts for those law school applicants who applied and were admitted before concluding their undergraduate programs, ensures that law schools calculate GPA statistics based on LSAC-normalized GPAs and protects against the use of a different GPA scale or methodology.

In any event, Duff & Phelps’s forensic analysis shows that Pless did not actually use final transcripts in calculating median GPAs. As noted above, there were two COL classes (2013 and 2014) for which changes to individual student GPAs led to COL’s reporting of erroneous GPA statistics to the ABA and USNWR. Duff & Phelps obtained the final undergraduate transcripts for the students in these classes whose GPAs were changed, and compared the students’ final GPAs with the GPAs set forth in COL’s internal spreadsheets. Duff & Phelps found that the students’ final undergraduate transcripts did not support the changes made to their GPAs.

**i. Class of 2012**

For the Class of 2012, Duff & Phelps found that there were 12 students whose GPAs were changed. Of those 12, one final transcript could not be located. Five students had graduated in prior years, meaning that LSAC had their complete undergraduate grades at the time that they applied to law school. Despite this, the GPAs of these students were all changed to higher values. One student’s GPA was raised from 3.73 to 3.80. Another’s was raised from 3.69 to 3.75.

The six remaining students with changed GPAs had recently graduated. These students had final transcripts which did not support the changes made to their GPAs. There was, as expected, some variation between the GPAs, as provided by LSAC data, and the GPAs listed in the final transcripts. These differences ranged from (-0.06) to (0.06). The differences between the GPAs listed in the final transcripts and the changed GPAs set forth in internal Admissions Office spreadsheets that Pless maintained were significant. Some students’ GPAs were increased by as much as 0.12. It should also be noted that no changes were made to the GPAs of students whose final GPAs, as set forth in their final transcripts, *decreased* from the GPAs provided by LSAC data.

The chart below sets forth examples of student GPAs based on LSAC data, the students’ final transcripts, and COL data.

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## Class of 2012 Transcript Analysis—Examples of Discrepancies

Student	Transcript GPA	LSAC GPA (Difference)	COL GPA (Difference)	Graduation Date
1	3.69	3.66 (-0.03)	3.75 (0.06)	11/2004
2	3.69	3.72 (0.03)	3.78 (0.09)	05/2006
3	3.74	3.74 (0.00)	3.79 (0.05)	05/2007
4	3.73	3.74 (0.01)	3.80 (0.07)	05/2008
5	3.78	3.72 (-0.06)	3.79 (0.01)	04/2009
6	3.75	3.69 (-0.06)	3.75 (0.00)	05/2009
7	3.68	3.69 (0.01)	3.76 (0.08)	05/2009
8	3.66	3.70 (0.04)	3.77 (0.11)	05/2009
9	3.73	3.72 (-0.01)	3.79 (0.06)	05/2009
10	3.64	3.70 (0.06)	3.76 (0.12)	05/2009

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### ii. Class of 2013

Duff & Phelps also analyzed the transcripts for the students in the Class of 2013 whose GPAs, as reflected in internal Admissions Office spreadsheets, were different (and therefore had been changed) from their GPAs as provided by LSAC data. This class had 31 students with changed GPAs. Of these 31 students, one transcript could not be located. Fifteen of the 31 students had graduated from their undergraduate college in prior years, meaning that the LSAC database contained their final transcripts. Nevertheless, changes were made to these students' GPAs, and the changes were often substantial. For example, one student's final transcript listed a GPA of 3.58, yet it was changed to 3.75. Another student's final GPA was increased from 3.57 to 3.80. None of the changes made to the GPAs of these students were supported by the students' final transcripts.

Sixteen of the 31 students in the Class of 2013 with changed GPAs were still undergraduates at the time that they applied to COL and therefore would have had GPAs in the LSAC database that were not based upon their final transcripts. Of these students, not one had a final transcript that supported the changes made to their GPAs. Again, many of the changes were substantial. For example, one student's final transcript listed a GPA of 3.59, while internal Admissions Office spreadsheets listed the student's GPA as 3.80. Another student had a final transcript that listed a GPA of 3.65, but Admissions Office spreadsheets listed the student's GPA as 3.84.

The chart below sets forth examples of GPAs as provided for by the students' final transcripts and the LSAC database, and as reported by COL.

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Class of 2013 Transcript Analysis—Examples of Discrepancies

Student	Transcript GPA	LSAC GPA (Difference)	COL GPA (Difference)	Graduation Date
1	3.58	3.57 (-0.01)	3.75 (0.17)	06/2002
2	3.56	3.57 (0.01)	3.75 (0.19)	05/2005
3	3.66	3.63 (-0.03)	3.83 (0.17)	05/2008
4	3.64	3.64 (0.00)	3.81 (0.17)	05/2008
5	3.58	3.59 (0.01)	3.79 (0.21)	05/2008
6	3.62	3.63 (0.01)	3.80 (0.18)	06/2009
7	3.57	3.60 (0.03)	3.80 (0.23)	12/2009
8	3.59	3.60 (0.01)	3.80 (0.21)	05/2010
9	3.65	3.62 (-0.03)	3.84 (0.19)	05/2010
10	3.62	3.60 (-0.02)	3.80 (0.18)	05/2010

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**D. Principal Findings**

**1. Selectivity Data**—COL reported and/or disseminated false selectivity data as follows:

*a. LSAT Data*

<u>Class</u>	<u>Erroneous Data</u>	<u>Changes to Student Data</u>
<b>2008</b>	<ul style="list-style-type: none"> <li>• 25<sup>th</sup> percentile reported as 162 (161 per LSAC data)</li> </ul>	None found
<b>2010</b>	<ul style="list-style-type: none"> <li>• 25<sup>th</sup> percentile reported as 160 (159 per LSAC data)</li> </ul>	None found
<b>2011</b>	<ul style="list-style-type: none"> <li>• 25<sup>th</sup> percentile reported as 160 (159 per LSAC data)</li> <li>• <b>Median</b> reported as 166 (165 per LSAC data)</li> <li>• 75<sup>th</sup> percentile reported as 167 (166 per LSAC data)</li> </ul>	<b>2</b> (each crossed reported median)
<b>2012</b>	<ul style="list-style-type: none"> <li>• <b>Median</b> reported as 166 (165 per LSAC data)</li> </ul>	<b>1</b> (crossed reported median)
<b>2014</b>	<ul style="list-style-type: none"> <li>• 25<sup>th</sup> percentile calculated as 164 (156 per LSAC data) (not reported or publicly disseminated)</li> <li>• <b>Median</b> publicly disseminated as 168 (163 per LSAC data) (not reported)</li> <li>• 75<sup>th</sup> percentile calculated as 169 (168 per LSAC data) (not reported or publicly disseminated)</li> </ul>	<b>109</b> (63 crossed calculated 25 <sup>th</sup> percentile; 41 crossed disseminated median; 14 crossed calculated 75 <sup>th</sup> percentile; 31 crossed neither percentile, nor the median)

*b. GPA Data*

<u>Class</u>	<u>Erroneous Data</u>	<u>Changes to Student Data</u>
<b>2008</b>	<ul style="list-style-type: none"> <li>75<sup>th</sup> percentile reported as 3.66 (3.65 per LSAC data)</li> </ul>	None found
<b>2009</b>	<ul style="list-style-type: none"> <li><b>Median</b> reported at 3.50 (3.51 per LSAC data)</li> </ul>	None found
<b>2010</b>	<ul style="list-style-type: none"> <li><b>Median</b> reported as 3.60 (3.59 per LSAC data)</li> </ul>	None found
<b>2011</b>	<ul style="list-style-type: none"> <li>25<sup>th</sup> percentile reported as 3.20 (3.13 per LSAC data)</li> <li><b>Median</b> reported as 3.59 (3.55 per LSAC data)</li> <li>75<sup>th</sup> percentile reported as 3.80 (3.78 per LSAC data)</li> </ul>	None found
<b>2012</b>	<ul style="list-style-type: none"> <li><b>Median</b> reported as 3.8 (3.7 per LSAC data)</li> </ul>	<b>12</b> (all crossed reported median)
<b>2013</b>	<ul style="list-style-type: none"> <li><b>Median</b> reported as 3.8 (3.6 per LSAC data)</li> <li>75<sup>th</sup> percentile reported as 3.9 (3.8 per LSAC data)</li> </ul>	<b>31</b> (all crossed reported median; 1 crossed reported 75 <sup>th</sup> percentile)
<b>2014</b>	<ul style="list-style-type: none"> <li>25<sup>th</sup> percentile calculated as 3.61 (3.38 per LSAC data) (not reported or publicly disseminated)</li> <li><b>Median</b> publicly disseminated as 3.81 (3.70 per LSAC data) (not reported)</li> <li>75<sup>th</sup> percentile calculated as 3.90 (3.85 per LSAC data) (not reported or publicly disseminated)</li> </ul>	<b>58</b> (43 crossed calculated 25 <sup>th</sup> percentile; 26 crossed disseminated median; 18 crossed calculated 75 <sup>th</sup> percentile; 3 crossed neither percentile, nor the median)

*c. Acceptance Rate Data*

<u>Class</u>	<u>Erroneous Data</u>	<u>Underlying Data</u>
<b>2008</b>	<ul style="list-style-type: none"> <li>No. of admissions offers reported as 446 (519 per LSAC data)</li> <li>Resulting acceptance rate = 15% (18% per LSAC data)</li> </ul>	No documents were located supporting the 446 reported admissions offers.
<b>2012</b>	<ul style="list-style-type: none"> <li>No. of applications reported as 3,516 (3,389 per LSAC data)</li> <li>No. of admissions offers reported as 1,031 (1,248 per LSAC data)</li> <li>Resulting acceptance rate = 29% (37% per LSAC data)</li> </ul>	<p>Number of applications improperly included prospective transfers and advanced study students.</p> <p>Number of admission offers improperly excluded certain admitted applicants.</p>
<b>2013</b>	<ul style="list-style-type: none"> <li>No. of applications reported as 4,833 (4,680 per LSAC data)</li> <li>No. of admissions offers reported as 984 (1,175 per LSAC data)</li> <li>Resulting acceptance rate = 20% (25% per LSAC data)</li> </ul>	<p>Number of applications improperly included prospective transfers and advanced study students.</p> <p>Number of admission offers improperly excluded certain admitted applicants.</p>
<b>2014</b>	<ul style="list-style-type: none"> <li>No. of applications calculated as 4,377 (4,219 per LSAC data) (not reported; publicly disseminated as “almost 4,400”)</li> <li>No. of admissions offers calculated as 837 (853 per LSAC data) (not reported or publicly disseminated)</li> <li>Resulting acceptance rate = 19% (20% per LSAC data)</li> </ul>	Number of applicants is miscalculated by Pless.

**2. Changes to Underlying Student Data as Basis for Erroneous LSAT and GPA Values**—With relatively few exceptions, the inflated median LSAT scores and GPAs, as well as certain inflated percentile values, were achieved by means of unjustified changes—all upward—to individual LSAC student data underlying the inflated values.

**3. Acceptance Rate Reduced through Omissions and Inclusions Not Supported by LSAC Data**—The diminished acceptance rates (in comparison to LSAC data) for the Classes 2012 through 2014 were achieved by overstating the number of applications received and understating the number of admissions offers extended by COL for these classes. The investigation did not discover any relevant work papers with respect to acceptance rate data for the Class of 2008, and therefore was unable to determine how the reported number of admissions offers was reduced below that provided for by LSAC data.

**4. Responsibility for Erroneous Selectivity Data**—With respect to the computation of COL selectivity data for reporting and marketing purposes, Pless, at a minimum, exhibited gross incompetence in the performance of his job duties. This function was Pless's responsibility, and his failure to perform this function satisfactorily is not in keeping with ABA Standard 101 and is directly contrary to ABA Standard 509, the University's Code of Conduct, and the UIUC Ethical Code.

**5. Facts and Circumstances Indicative of Knowledge and Intent on the Part of Pless**—The information obtained, and the analysis conducted, in connection with this investigation support the inference that Pless knowingly and intentionally inflated LSAT and GPA values and miscalculated acceptance rate data by the means described above, including through numerous changes to underlying student data. Facts, circumstances, and analytical results demonstrating Pless's intent and knowledge in this regard include the following:

- Pless was, and was understood throughout COL to be, the COL employee chiefly responsible for recruiting and enrolling COL classes, and therefore chiefly responsible for the academic quality of these classes.
- Pless understood the importance of selectivity data (in particular, median LSAT scores and GPAs) to COL and stood to benefit personally and professionally from enrolling classes that had impressive academic credentials.
- Pless understood the importance of accurately computing selectivity data and was regarded by himself and others as experienced and adept at maintaining voluminous data in spreadsheets from which mathematical calculations could be made. Indeed, the fact that Pless accurately calculated selectivity data in many of the years encompassed within the investigation demonstrates that Pless was fully capable of making these calculations with precise accuracy.
- Pless had numerous opportunities to view and review, and confirm the accuracy of, selectivity data for a given class on both a macro- and a micro-level. On a daily basis throughout much of an admissions season, Pless had occasion to review individual student LSAT scores and GPAs, and also to assess then-current acceptance rate data (i.e., applications and admissions offers). Indeed, Pless carefully monitored the profile of each upcoming class as the admission season unfolded, personally reviewed and rendered a decision on every application, and assessed the progress of the class toward achievement of median LSAT and GPA goals. Pless likewise conducted selectivity computations on a regular basis and, each year, was asked to

provide such computations and acceptance rate data for inclusion in COL reports to the ABA and USNWR, and in COL marketing materials.

- Pless at times manually entered information into spreadsheets containing student LSAT scores and GPAs, and thus would have had these additional opportunities to notice any such figures that deviated from LSAC data or otherwise were inconsistent with available information. For instance, Pless manually entered scholarship amounts in a column on a spreadsheet in close proximity to student LSAT scores and GPAs obtained from LSAC. The chart below is a portion of such a spreadsheet modified so as to conceal the identities of the students involved and hide various other data fields in the spreadsheets. (The data fields Y through AB appear as they do in the spreadsheet.) As this chart illustrates, had the scholarship amount that Pless awarded a particular student been inconsistent with that student’s LSAT score and/or GPA, this inconsistency should have been readily apparent as Pless entered that amount and other amounts for other listed students. (Pless contends that he did not notice any such inconsistencies when entering scholarship amounts.) The fact that Duff & Phelps found a correlation between LSAC, LSAT, and GPA data, on the one hand, and scholarship amounts (with lower credentials generally garnering lower amounts), on the other hand, suggests that Pless regularly accessed and relied upon accurate student data and therefore would have known when such data was inaccurate.

### Columns for LSAT, GPA, and Scholarships are Proximate

1	Last Name	First Name	LSAT	GPA	App Date	Scholarship
47	Student	46	157	3.83	02/27/201	10000.00
48	Student	47	169	3.86	10/31/201	10000.00
49	Student	48	169	3.93	12/14/201	42000.00
50	Student	49	157	4	01/25/201	5000.00
51	Student	50	164	3.81	11/04/201	17500.00
52	Student	51	168	4.00	11/17/201	35000.00
53	Student	52	169	3.62	12/22/201	30000.00
54	Student	53	168	3.18	02/01/201	15000.00
55	Student	54	169	3.56	12/24/201	30000.00
56	Student	55	170	3.62	11/05/201	35000.00
57	Student	56	173	3.62	01/02/201	15000.00
58	Student	57	172	3.62	02/24/201	10000.00
59	Student	58	171	3.62	11/11/201	30000.00
60	Student	59	164	3.48	12/20/201	20000.00
61	Student	60	165	3.85	10/30/201	24457.00
62	Student	61	170	3.07	12/19/201	30000.00
63	Student	62	163	3.61	11/22/201	10000.00
64	Student	63	175	3.64	01/21/201	42000.00
65	Student	64	168	3.01	12/28/201	30000.00

Note: Columns C – W are hidden.  
Source: CTRL00256345 (Class of 2014 Applicants.xlsx)

- The sheer number of changes to individual student data (a total of 213), the length of time over which the changes were made (four years), and the fact that changes were made to both LSAT scores and GPAs, is inconsistent with the notion of

inadvertent errors, as is the fact that underlying acceptance rate data was erroneously included and omitted with respect to multiple classes. Furthermore, the increasing rate of errors each year is indicative of intentional manipulation—the changes needed to increase in number and magnitude in order to keep up with, if not improve on, previously manipulated results.

- The patterns and effect of the changes to individual student LSAT scores and GPAs also support the inference that Pless made the changes knowingly and intentionally. As shown above, these changes were all in one direction, upward, and the vast majority of them had a statistically significant effect, insofar as they contributed to the inflation of median values, 25<sup>th</sup> percentile, and/or 75<sup>th</sup> percentile values. There was an apparent effort to maintain or increase the median GPA and LSAT score of the previous year.
- The motivation to change individual student scores was particularly strong with respect to the Class of 2014. Despite a concerted and expensive effort to secure a highly credentialed class (LSAT median goal of 168; GPA median goal of 3.8), the class's medians (LSAT median of 163; GPA median of 3.7) fell considerably short of the median goals and constituted a major professional setback for Pless, who had prided himself on, and had been widely recognized for, continually enrolling classes with increasingly strong credentials.
- Although Pless was not compensated based on an incentive or “bonus” system, his performance, the value of his contribution to COL, and his overall marketability were substantially tied to the academic credentials of the classes that he recruited, among other factors. Pless had a national profile and received employment overtures and at least one employment offer from another law school. The understanding that Pless could be hired away by another school and his track record for enrolling highly credentialed classes were key considerations in decisions to award Pless raises, and at times quite substantial raises, even when other COL employees were receiving little, if any, pay increases.<sup>43</sup>

**6. Knowledge and Involvement of Other COL Personnel**—The investigation has discovered no information indicating that any person other than Pless had knowledge of, or was in any way complicit in, the changes to individual student LSAT scores or GPAs, or the miscalculation or misreporting of COL selectivity data. To the contrary, it appears that changes to individual student data were made as a means of creating artificial support for the LSAT and

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<sup>43</sup> Pless's wife was hired by COL as a clinical instructor beginning in the current academic year. (There are no COL policies prohibiting the hiring of the spouses of employees—Pless's wife had previously worked in COL's placement office; she has never been employed in the Admissions Office.) Smith and other COL administrators and faculty members considered this hiring during the preceding academic year (2009-2010). At times, certain COL personnel viewed the prospect of hiring Pless's wife favorably based, in part, on Pless's position and performance at COL. For his part, Smith expressed to faculty and administrators that the decision whether to hire Pless's wife would be made without regard to Pless or any desire to retain Pless. The investigation has not revealed any irregularities with respect to this hiring.

GPA statistics that Pless provided to other persons. It is reasonable to infer that Pless would likely have concealed these changes (indeed, his practice was to overwrite them) and would have disclosed them only if necessary to support his prior calculations. With the exception of Admissions Office personnel, other persons did not have access to the spreadsheets on which the changes were made, nor could they have in any event compared student data on those spreadsheet with corresponding LSAC data due to their lack of access to the LSAC database. And while Admissions Office personnel did have access to both internal spreadsheets maintained by Pless and the LSAC database, no other Admissions Office personnel had any responsibility for the calculations or the reporting thereof.

**7. Earlier Opportunities to Detect Student Data Changes and Misreporting of Selectivity Data**—The investigation discovered only a few instances that presented potential opportunities for certain COL employees other than Pless to have discovered COL’s reporting or dissemination of erroneous selectivity data prior to the commencement of this investigation. It appears, however, that, prior to August 2011, no person ever questioned the accuracy of COL’s selectivity data, much less suspected Pless of having miscalculated any such data or changed (inadvertently or intentionally) any student-level data.

**8. Operation of University Whistleblower Program**—The policies and processes established by the University to receive and investigate ethics matters functioned as designed in this instance. The investigation was triggered by information brought to light by an individual with relevant knowledge. This information was submitted by this individual to the Ethics Office and promptly acted upon by that Office. University leadership, in turn, immediately launched this investigation, directing all University and COL employees involved to cooperate fully with the investigation, and expanding the scope of the matter to cover related issues of importance. The extensive cooperation that was then given by many University and COL employees, under significant time constraints, and the priority that University and COL leadership assigned to this matter, were instrumental in enabling a comprehensive and expeditious review of the matter.

**9. Lack of Adequate Internal Controls and Segregation of Duties**—At all times relevant to this investigation, COL lacked internal controls and oversight adequate to prevent, deter, and detect the reporting and dissemination of erroneous selectivity data. COL had a process by which a designated official—the Academic Administration Dean—collected data from various COL offices and employees for inclusion in third-party reports, and this official appears to have performed this function with a high degree of care and diligence. COL’s process, however, did not involve any meaningful data verification—in particular, a comparison of the statistical information put forth in the reports with the underlying data from which the statistics were supposed to be derived. The certifications that COL Deans made to the ABA as to the accuracy of data contained in ABA Questionnaires and other representations in the same vein that COL made to its various constituencies thus rested on a flawed control regime.

In short, throughout the 10-year period reviewed, COL did not have effective internal mechanisms to detect misconduct within the meaning of Section 9.5 of the Business Policies Manual. Compounding this deficiency was the fact that key duties were not segregated among multiple employees, but rather consolidated in one employee, Pless, who had the sole responsibility to compile, compute, and verify COL’s selectivity data. Moreover, no one outside

COL conducted any audits or similar procedures to verify the accuracy of selectivity data, nor did COL officials expect that any such procedures would be conducted.

It bears emphasis that the ARC specifically commented on the Admissions Office's "single decision-maker approach" and recommended that COL "institute a more robust" and "inclusive" admissions process. Although this ARC recommendation sought to address a concern that is not present here—undue influence in admissions decisions—the recommendation itself is nevertheless germane. While this Report makes no recommendation as to the relative merits of different admissions processes, it does note that a process that reveals raw selectivity data (e.g., individual student data) to multiple persons both inside and outside the Admissions Office, especially persons charged with data verification responsibilities, is one that will generally reduce the likelihood of data manipulation.

**10. Absence of Outward Indicia of Data Irregularities or Compliance Concerns**—The changes to underlying student data and the resulting reports and announcements of erroneous selectivity data went undetected until August 2011 for several reasons, including—

- Pless's track record of enrolling highly credentialed classes tended to lend credence to the credentials of each successive class. (Other than the 3-point LSAT median increase achieved with the Class of 2008 (which has been validated through an examination of LSAC data), annual median increases generally did not appear particularly dramatic, and in some years, the medians remained at pre-existing levels.)
- Pless was regarded by colleagues and by COL leadership as an employee of high integrity and as an otherwise high-performing employee. And within and beyond COL, he was considered a model of transparency, the rare law school admissions officer who would openly discuss admissions-related topics that were traditionally cloaked in secrecy, or who would, as became known through the ARC proceedings, resist efforts of superiors to foist decisions upon subordinates that were better left to admissions professionals. Simply put, it was unfathomable to those within COL and elsewhere that Pless would cause erroneous selectivity data to be issued, whether inadvertently or intentionally.

**11. COL's Culture and the "Tone at the Top"**—There appears to be a consensus among COL personnel that the current leadership, and Smith, in particular, has a strong compliance and ethics orientation and that this orientation is well understood by employees throughout COL. While certain persons noted Smith's intense management style, none of the conduct addressed herein appears to have been influenced by Smith's management style. Nor did Pless, by his own account, ever feel any undue pressure from Smith to enroll (or to report that he had enrolled) a class that met selectivity goals or simply not to disappoint Smith.

**12. No Information Indicating Financial Malfeasance**—The investigation has not uncovered any information indicating that any person engaged in embezzlement or other financial malfeasance in connection with the issues and events reviewed.

**13. No Impact on Admissions or Scholarship Decisions**—The investigation has not uncovered any information indicating that any admissions decisions (e.g., whether to admit, deny, or waitlist an applicant) were affected by changes to individual student data or the resulting reporting and dissemination of erroneous selectivity data. Pless stated that, in making admissions decisions, he referred to information contained in the LSAC database, instead of referring to data in spreadsheets that he maintained. With respect to scholarship awards, an analysis conducted by Duff & Phelps of the amount of individual awards, compared with the true LSAT scores and GPAs of those scholarship recipients (as provided for by LSAC data) revealed a positive correlation between these data sets—that is, it generally appears that Pless gave larger scholarships to higher credentialed students, and smaller scholarships to lesser credentialed students.

**14. No Knowledge on the Part of Students**—The investigation has not uncovered any information indicating that any students who had their LSAT scores and/or GPAs changed knew that those changes had been made or had any involvement in making those changes.

## VI. OTHER DATA INVESTIGATED

### A. Scholarships

Duff & Phelps obtained scholarship data from the Financial Aid Office and performed an analysis of the scholarship awards granted and the number of students receiving awards, during each academic year from 2005-2006 through 2010-2011.<sup>44</sup>

Financial aid is granted in the form of both scholarships and loans. Scholarships are funded from a variety of sources, including COL funds and private funds that are administered by COL and/or the Urbana-Champaign campus. Loans include direct subsidized loans, unsubsidized loans, Grad Plus loans, and University loans. Any particular student's total aid may come from dozens of different sources, and students receive their total funding packages from numerous sources—some students can receive aid from up to 22 different forms of loans, scholarships, and fee waivers.

Pless had sole decision-making authority with regard to whether and how much to award first-year COL students in scholarship funds. In recent years the scholarship pool under his discretion has topped \$8 million, to be used among all three classes at COL. Pless typically advised an admitted applicant of a scholarship award and the amount at the time of admission, although that amount was subject to change as applicants at times sought to negotiate with Pless for larger awards. As noted above, Pless applied scholarship funds to strategic admissions objectives, including achieving LSAT and GPA goals, and ensuring a diverse student body. These findings are consistent with statements by the Associate Dean for Academic Affairs that COL is interested in both high scores and diversity.

Once Pless determined a student's scholarship amount, that amount was transmitted to the Financial Aid Office, which distributed all aid to students in the form of scholarships, loans, grants, tuition remissions, and fee waivers. At no time did Pless distribute any aid funds. The Financial Aid Office sent a report to COL, by category, of the total amount of aid disbursed.

COL reports total scholarships to the ABA and COL Scholarships—which consist of tuition remissions—to LSAC.<sup>45</sup> App. 71. A comparison of COL Scholarships recorded by the Financial Aid Office with the scholarships reported to LSAC shows that these amounts were consistently reported. The total amount of scholarships granted for any academic year, however, is less than the amount reported to the ABA.

Despite considerable effort, Duff & Phelps was unable to reconcile the scholarship amounts reported by Pless to the ABA with the scholarship amounts paid by the University. The ABA Questionnaire asks for the total amount of “all scholarships, fellowships, and grants,” and the number of students who receive scholarships, fellowships, and grants. App. 71. In

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<sup>44</sup> Scholarship amounts are reported to the ABA based on scholarships received by all students enrolled in the school for a given academic year and not on a class-by-class basis.

<sup>45</sup> COL scholarships are designated as award code “131TUN” in the Financial Aid Office reports.

attempting to match the University's recorded aid with the amounts reported to the ABA, Duff & Phelps calculated, on a student-by-student basis, the total scholarships received from up to 22 different sources of aid. These student-level totals were then summed to produce a grand total for scholarship aid granted to all students enrolled in a particular school year.

The results of Duff & Phelps's calculations differ from those COL reported to the ABA, but this is not necessarily indicative of misreporting. Duff & Phelps has been unable to find any work papers to support the scholarship amounts reported to the ABA. Due to the multiple sources of student aid and the uncertainty as to how Pless categorized aid sources, Duff & Phelps was unable to duplicate aid figures. Duff & Phelps has searched for work papers in the Admissions Office shared drive, as well as directly from Pless's work hard drive. While some spreadsheets exist, these spreadsheets do not detail the methodology for determining the figures reported to the ABA. It is therefore not possible to replicate the amounts reported by Pless due to the number of variables involved.

According to Financial Aid Office and COL personnel, while the scholarship amounts were transmitted by the Financial Aid Office to COL, it was solely the responsibility of Pless to calculate the figures that were sent to the ABA. There is little understanding of how this was done by Pless. Because of this lack of transparency and the lack of supporting work papers, considerable additional work would need to be done to determine whether any scholarship misreporting to the ABA occurred. Regardless of the lack of transparency, Duff & Phelps has not concluded that any scholarship data have been misreported. Put simply, there are too many unknowns to draw any conclusions.

In the future, to determine the accuracy of its reporting to outside bodies like the ABA, COL should produce and maintain work papers that clearly designate which funds are used to determine the scholarships, fellowships, and grants that are subject to being reported. Without such documentation, the figures reported cannot be meaningfully audited or verified, and, consequently, misreporting cannot be ruled out.

In addition, Duff & Phelps has identified no evidence suggesting that Pless was able to, or did, illegally remove any money from the scholarship process. Again, though Pless had sole responsibility for determining the amount of each award, he was not responsible for the distribution of the funds to students. Rather, the funds were administered by the Financial Aid Office. In short, the funds were part of a closed system that appears not to have afforded Pless an opportunity to remove funds.

## **B. Career Placement**

Duff & Phelps analyzed job placement tracking and reporting data provided by the Career Office to assess the accuracy of COL's reporting of placement data to NALP according to NALP's reporting criteria. Duff & Phelps's analysis consisted of interviews of key Career Office personnel and a review of two career placement reporting databases maintained at COL. Duff & Phelps did not conduct a student-by-student verification of placement through contact with individual students or third-party sources. Based on its review, Duff & Phelps did not

uncover information indicating that COL has misreported placement data within the time period covered by this investigation.

COL placement data are maintained within the Career Office, and the responsibility for compiling and calculating COL career placement data lies with Career Office personnel. The data reviewed are maintained in two forms. First, the data are stored on a tracking database—the Career Office’s “Dashboard”—designed to provide real-time information on the employment status of a student or alumnus working with the Career Office.<sup>46</sup> According to COL’s Director of Data Services, the Career Office’s Dashboard was designed at the request of Smith so that Smith could have access to current placement statistics at all times. Information is entered into the Dashboard by any of COL’s employment counselors or by the Director of the Career Office. The Dashboard began tracking students in January 2010.

The second source of placement data is a database in which student employment information is entered by the Director of the Career Office, or, in some cases, by a counselor or a student. Students may enter information only about themselves. This database is known internally either as GES or Symplicity. The name Symplicity refers to the enterprise-level software system that law schools use to administer the GES. For reporting purposes, the GES is exported in raw text format to NALP, which uses the GES data to calculate its placement statistics. NALP subsequently reports employment statistics to the ABA and USNWR. GES provides a snapshot of a class’s employment status nine months after graduation. Student information is generally no longer updated in the system after those nine months have elapsed.

In an effort to assess the accuracy of COL’s reported placement data, Duff & Phelps analyzed both the Dashboard and the GES database. Duff & Phelps compared the Class of 2010 placement information contained in the GES database to the employment information recorded on the Dashboard. Because the Dashboard is maintained by several counselors and internally records any changes by any user, it is generally less susceptible to improper manipulation by any one person and is therefore a potentially accurate source of employment data.

In the GES database, 193 students are identified as being graduates of the Class of 2010. Of these, 171 are designated as “Employed” seven as “NOT Seeking Work,” eight as “Seeking Work,” and seven as “Enrolled in a Full-Time Degree Program.” Duff & Phelps analyzed the corresponding entries of the Class of 2010 in the Dashboard to compare the descriptions of contact with the Career Office with these employment designations.

In this comparison, Duff & Phelps discovered only three instances in which the information substantiating a student’s employment status was incomplete. The Dashboard description for one of the three students designated as “NOT Seeking Work” was consistent with active job-seeking. The Dashboard entries for the other two students were designated as “Employed,” but their employment status was changed even as active job seeking continued. No indication is given as to why the changes in status to “Employed,” were made at that time, or

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<sup>46</sup> The term “Dashboard” comes from the summary page that the database generates. This summary page provides employment statistics and a list of students or alumni who are currently seeking employment.

what jobs were involved. Both students appear to have continued their job seeking after their employment status was updated to “Employed.” These changes, however, were not made directly prior to a NALP reporting period, and no other discrepancies were identified.

An additional focus of this aspect of the investigation was to determine whether information relating to a student’s employment status was improperly manipulated prior to NALP’s reporting periods. NALP requires law schools to report the number of students employed both as of graduation and nine months after graduation. Mid-February of the year following graduation is the nine month employment cut-off date for NALP reporting purposes. In order to determine the likelihood of such manipulation, Duff & Phelps reviewed Dashboard records in which a student’s employment status was changed, and found no evidence of a concentration of changes before or after the February reporting period. Specifically, Duff & Phelps found that there were 393 changes in student employment status in the Dashboard since its inception (January 2010). A change in employment status typically indicates that a student’s status changed from unemployed to employed.<sup>47</sup>

If the data were manipulated, one would expect to see an unusual spike in status changes that would reduce the number of students categorized as unemployed immediately before officially graduating (mid-June) or before the mid-February reporting period. No such spike was identified. Of the 393 changes in employment status, only 8.9% of them took place in February. The bulk of the changes took place in May (15.5%), June (19.6%), and January (12.4%). The concentration in May and June is prior to and just after graduation; however, such changes might be expected as that time period coincides with many students finding post-law school jobs.

In addition to analyzing the Dashboard and GES databases, several Career Office personnel were interviewed. These interviews confirmed that the former director of the office had a large amount of control over the placement reporting process. Unlike the Admissions Office, however, multiple persons were able to view the underlying student data—in this case, several other people were able to view the data within the GES database and Dashboard, which enhanced the accountability for, and reliability of, data entries. In addition, the Dashboard recorded all changes, as well as the username of the author of those changes, which further enhanced accountability and reliability. In fact, the designer of the Dashboard database stated that accountability was a primary reason for Smith’s request that the database be created. However, without more reliable tracking of placement information or student or third-party verification, the ability to verify the accuracy of COL’s placement data is limited. In order to completely verify these data, each student’s employment status would need to be independently reviewed and ascertained.

### **C. Bar Passage Rates**

Duff & Phelps analyzed the accuracy of bar passage rate data that COL reported to the ABA. As to these data, the ABA instructs law schools to report bar examination statistics for

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<sup>47</sup> The status categories maintained by the system are Employed, Seeking Work, Not Seeking, Continuing Education, and Unknown.

first-time test takers of the February and July bar examination. Schools must account for at least 70% of their graduates who took the bar examination for the first time. In all years analyzed by Duff & Phelps, these rules were met by COL.

Specifically, Duff & Phelps analyzed graduation lists for the Classes of 2005 through 2009, State of Illinois bar examination statistics for first-time test takers from 2005 through 2009, and State of New York bar examination statistics for first-time test takers from 2005 through 2009. (Illinois and New York are the jurisdictions in which the bulk of COL graduates sit for the bar examination.) In addition, Duff & Phelps analyzed the bar passage rates that COL submitted to the ABA for the years 2006 through 2010. Two examinations are given in each state per year, resulting in an analysis total of 20 different examination results.

Duff & Phelps tested the accuracy of COL's reported bar passage statistics by comparing the documents provided by the Illinois and New York bar admissions agencies against COL's reported figures. Duff & Phelps analyzed the number of test takers and the number of takers who passed, and independently determined the bar passage percentage. The ABA requires COL to report first-time test taker data only, and first-time test takers are specifically delineated in the documents from both states. The bar passage rate is calculated as the sum of the number of first-time passers in the February or July examination divided by the sum of the number of first-time takers in the examination at issue.

All data (the number of takers, the number of takers who passed, and passage percentage) calculated from the official sources corresponded with the figures that COL reported to the ABA, and no discrepancies were uncovered. In addition, Duff & Phelps also analyzed student-level data detailing bar passage results from the state bars for all examinations except for the February 2007 Illinois bar examination, as the student-level data with respect to that examination were not provided by the state bar agency. Using this student-level information, the bar passage statistics were re-computed to ensure that the state bars had computed the passage rate correctly. No discrepancies were detected via this secondary check.

## VII. RECOMMENDATIONS

During the course of this investigation, the University and COL undertook personnel action and other steps to address the conduct described herein, to ensure the accuracy of the student profile data that COL will provide in this year's ABA and USNWR submissions, and to mitigate the risk of recurrence of data inaccuracies and irregularities going forward. For instance, on September 7, 2011, Pless was placed on administrative leave. On November 4, 2011, Pless tendered his resignation to COL, effective immediately. Also, with respect to COL's upcoming ABA and USNWR submissions, Duff & Phelps has worked, and continues to work, closely with COL officials in the review and verification of data to be included in these submissions.

In addition to steps already undertaken, COL should implement the following measures as promptly as practicable:

**1. Correction of Erroneous Reported/Disseminated Data**—We recommend that the COL Dean take all necessary steps to promptly disclose and correct all erroneous data uncovered by this investigation. This is of particular importance given that COL Deans have signed certificates attesting to the accuracy of information submitted to the ABA, and COL has widely disseminated inaccurate information relating to the profiles of multiple classes, as described herein.

**2. Development and Implementation of Appropriate Controls, Including Effective Segregation of Duties**—We recommend that the COL Dean ensure that a comprehensive review of control procedures within COL is conducted to identify and implement best practices in the area of data compilation and reporting, in consultation with professionals and/or institutions having relevant experience and expertise (e.g., data verification processes, fraud detection). While we acknowledge the need, in an extraordinarily competitive and often time-sensitive environment, for the Admissions Office to be nimble and prompt in making admissions-related decisions (e.g., decisions to admit, scholarship awards) and otherwise responding to applicant inquiries and concerns, a revamped control regime should avoid excessive concentration of decision-making authority in any single individual, and responsibility for compiling, computing, and verifying data should be appropriately distributed across a sufficient number of individuals to ensure full compliance with applicable rules and guidelines.

On an ongoing basis, COL should evaluate the efficacy of its controls and, of course, timely make any necessary modifications thereto.

**3. Robust Monitoring/Audit Function**—We recommend that COL develop and implement a monitoring and auditing program sufficient to ensure that the internal controls are functioning properly and that all data reported to constituencies or other third parties, whether internal or external (e.g., faculty, students, media, ABA, USNWR, LSAC, industry publications), are accurate and supported. Further, we recommend that all supporting documentation and calculations be maintained in accordance with a document retention policy setting forth reasonable retention terms and conditions (e.g., duration of retention for specified categories of documents).

**4. Assessment of Risks Relating to Other Data**—COL annually reports to the ABA, USNWR, LSAC, and other organizations data that are not within the scope of this investigation. In light of the findings of the investigation, we recommend that the COL Dean undertake a review of any other data for which a discernable risk of miscalculation and misreporting exists.

**5. Institutional Culture**—We recommend that the COL Dean and other members of the COL leadership team take steps to reinforce COL’s commitment to integrity and ethical conduct, and to make clear to the COL community that unethical behavior will not be tolerated.

**6. Advocacy for Transparency and Data Integrity**—As a public institution, COL has an obligation to instill trust in the integrity of its information and personnel. COL should consider seizing this opportunity not simply to come into compliance with current data reporting requirements and guidelines, but to champion industry-wide reforms that would provide heightened transparency for key constituencies and stakeholders (e.g., other law schools, prospective and current students, legal employers, faculty, employees, alumni, and donors), as well as the public at large.

**7. Vigilance on Institutional Priorities and Employee Incentives**—While COL has much work to do to repair the damage sustained as a result of this matter, it remains one of the premier law schools in this country, and nothing in this report should be construed as disparaging the clear and long-standing ambition of COL to enhance its standing among peer institutions. To the contrary, this ambition animates COL and, if channeled appropriately, promises to enable COL to quickly resume its generally laudable effort to enhance the strength of the institution and its national reputation. As it recovers from this episode, COL should remain vigilant against placing undue emphasis on any particular data or factor in its admissions process and creating unchecked incentives for employees that might lead to conduct contrary to the best interests of the institution.

**8. Appropriate Promotion of Whistleblower Program (Institutional Benefits and Personnel Protections)**—Even though, as this investigation revealed, COL reported and disseminated erroneous selectivity data over multiple years, it is noteworthy that, in this instance, the University effectively self-policed; it obtained information and thereafter reviewed and acted upon that information in ways that will both address the historical conduct at issue and better position COL from a transparency and integrity perspective in the future. We recommend that University, campus, and COL administration ensure that the University community understands the long-term benefits that inure to the University from personnel stepping forward with information, and that individual employees understand the protections they are afforded when doing so. This will underscore the University’s commitment to the reliability of its data and integrity in all respects. This matter may present opportunities to reinforce the institutional policies and culture that, in this case, resulted in important information being presented to the Ethics Office for investigation.

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