Testimony Submitted in Opposition to Wilson College's Application for Approval of a Certificate of Authority to Amend its Articles of Incorporation

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I. Introduction

In June 2013, Wilson College filed an application for approval of a Certificate of Authority with the Pennsylvania Department of Education to amend its Articles of Incorporation to include as one of Wilson's purposes the promotion of education of both women and men in the undergraduate, residential program. The application should be denied because a fundamental change to the College's mission should not be based upon false and misleading information including unsubstantiated revenue projections, illusory enrollment goals, and unrealistic assumptions for charitable giving and endowment growth. Furthermore, a fundamental change to the College's mission should not be funded from an endowment previously established to pay existing debt obligations.

Argument A - The Board of Trustees failed to conduct due diligence in reviewing recommendations from President Barbara Mistick and, moreover, abrogated its fiduciary responsibility for oversight of the College's finances by approving President Barbara Mistick's *Execution Plan Spending and Capital Needs Timeline by Project Type and Year.*

Argument B – President Barbara Mistick, with the assistance of Stevens Strategy, a consulting group engaged by the President, submitted false and misleading information to the Board of Trustees in order to obtain approval of the President's co-education initiative.

Argument C - The Board of Trustees ignored its own decision reaffirming the identity of the College for Women and failed to uphold its 144-year historic mission. Boards have the ultimate responsibility for governance and, as such, are accountable for the mission and heritage of their institutions. They are equally accountable to their institutions' constituents.

Argument D – The Board of Trustees improperly relied on incorrect or misleading advice from the College's outside counsel in reviewing and approving proposed amendments to the Articles of Incorporation and Bylaws.

II. Argument A - Lack of Due Diligence and Abrogation of Fiduciary Responsibilities: The Board of Trustees failed to conduct due diligence in reviewing recommendations from President Barbara Mistick and, moreover, abrogated its fiduciary responsibility for oversight of the College's finances by subsequently approving President Barbara Mistick's *Execution Plan Spending and Capital Needs Timeline by Project Type and Year.* Had due diligence been conducted, it is reasonable to conclude that the Trustees in performing their fiduciary duty would not have approved the President's co-education initiative.

On November 19, 2012, President Barbara Mistick submitted a report to the Board of Trustees inclusive of strategic recommendations and the Predictive Financial Models for decision-making. (See Attachment 1.) A special meeting of the Board of Trustees was convened for November 30 - December 1, 2012 to review and consider the President's Plan.

President Mistick's plan relied upon Predictive Financial Models developed by a consultant, Stevens Strategy. At this special meeting of the Board, several Trustees raised questions regarding the accuracy of the data in the Predictive Financial Models because the models were based on illusory enrollment goals, unrealistic assumptions for charitable giving and endowment growth, and unsubstantiated revenue. Moreover, no marketing feasability study was conducted to evaluate whether Wilson College could achieve the enrollment goals set forth in the Predictive Financial Models. According to President Mistick, the financial success of the College was predicated upon achieving those enrollment goals.

A properly functioning Board does most of its work in standing committees, and this had been the historic pattern for Wilson's Board of Trustees. Many Trustees expected to convene in those standing committees to review the recommendations presented by President Mistick. Committees that should have convened, but failed to, were Advancement, Academic Affairs, Buildings and Grounds, Enrollment Management and Student Life, and Finance and its Investment Subcommittee. Committee meetings are the appropriate place where Trustees can review, discuss and analyze recommendations. Contrary to the Board's past practices, these committee meetings did not take place. Rather, the Board met as a whole, without a defined process to review, discuss and analyze each recommendation individually. While some Trustees raised questions and concerns, the Board did not use a process to address and resolve those concerns. As a result, the Board failed to utilize the expertise of individual Trustees. During the meeting when the Board met as a whole, Trustees identified eight areas of high and very high risk, as defined in the Statement of Potential Risks (see Attachment 2), but the Board failed to conduct an assessment of those risks and other adverse consequences.

One of the areas of highest risk that received little consideration was, and is, the College's inability to borrow money necessary to support the President's proposals. The Predictive Financial Model with co-education called for borrowing funds to build a new residence hall in FY15 at a projected cost of $26 million. The College currently has $31 million of bonds outstanding, which are backed by a Letter of Credit from the Bank of America. The College has been out-of-compliance on one of its financial performance covenants with the Bank of America, the Debt

Service Covenant, since 2012. As a result, the Bank of America has already notified the College that it will not renew its Letter of Credit at the expiration of its term in November 2015. For this reason, it is highly unlikely that the College will be able to borrow an additional $26 million to construct a new residence hall. Without a new residence hall, enrollment growth will be capped at approximately 400 residential students, far short of the projected enrollment growth of 800 residential students in the Predictive Financial Model with co-education. This shortfall will make it impossible for the College to grow its tuition and auxiliary revenues to the levels needed to support the President's proposed financial plan.

Because Trustees identified potential areas of high and very high risk, members of the Board's Finance Committee asked to convene a meeting to review and analyze the Predictive Financial Models, but the meeting was never held. Likewise other committees failed to convene, which resulted in a situation where Trustees could not obtain reliable information, could not properly analyze risks and other adverse consequences, and could not address and resolve their concerns.

When the Board was asked to make its decision on the President's plan, Trustees knew the financial data as presented contained materially incorrect and misleading information. For this reason fourteen (14) Trustees voiced their disapproval of the President's Plan at the December 1, 2012 meeting, citing that more review and analyses were needed. This fact was noted in the minutes of the November 30 – December 1, 2012 Special Meeting of the Board. (See Attachment 3.)

Even though President Mistick submitted additional information to the Board on December 21, 2012; some of that additional information conflicted with previously submitted materials, which led to even more confusion among the Trustees. (See Attachment 4.) After receiving that additional data, some Trustees performed independent data analyses of the Predictive Financial Models and the potential market size of applicants to women's colleges. The results of these analyses demonstrated that the data and assumptions previously provided by Stevens Strategy were incorrect, but Trustees were not permitted by Board Chair John Gibb to present and discuss their findings. Several Trustees expressed grave concerns about the projected spending for capital projects, suggesting instead that the College identify funding sources other than the Quasi endowment, which was created in 2007 during the *Leading With Confidence Capital Campaign*. During that capital campaign, donors provided financial support for the construction of a science complex and the College funded the Quasi endowment with those contributions for that purpose. Accordingly, the Quasi endowment was valued at $30 million at June 30, 2012. It was the express intent of the Board to use the Quasi endowment as the required collateral necessary to fund reimbursement of the interest and principal payments of the 30-year loan agreement.[1]

> *Note 1:* According to the College's audited financial statements dated March 20, 2013, prepared by ParenteBeard, the following statements appear under Note 8. Long-Term Debt:

> "On November 1, 2007, the College entered into a loan agreement with the Municipal Authority of the Borough of Chambersburg ("MABC") whereby the MABC agreed to advance to the College the proceeds of the MABC's Revenue Bonds – Series of 2007 (Wilson College Project). Bond proceeds of $31,180,000 are to be applied to: (a) construction of a 76,000 square-foot state-of-the-art science center and the acquisition of other necessary or suitable interest in land, furniture, and equipment; (b) refunding of the 2001 and 2005 Notes and the 2006 line-of-credit; (c) funding capitalized interest reserve, and (d) paying the bonds' issuance costs. The College's repayment of this obligation will conform with the interest and principal-payment dates of the 2007 Bonds.
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> **The indenture of the Revenue Bonds, Series 2007, requires the College to pledge as collateral its unrestricted gross revenues not previously pledged.** (Emphasis added.) The bonds are backed by a letter of credit in an amount equal to the outstanding balance of the bonds, plus accrued interest. This letter of credit requires payment of additional fees (.48% of bonds payable at June 30, 2012). The College intends to maintain letters of credit in effect for all revenue bond series throughout their stated natural maturities. The current letter of credit expires November 7, 2015. The Bond agreement requires maintenance of the letters of credit through the maturity of the bonds."

In 2007, Wilson College and the Bank of America entered into a Letter of Credit agreement in which two financial performance covenants were defined: 1) Debt Service Coverage Ratio, and 2) Unrestricted Liquidity Ratio. Notwithstanding its Letter of Credit agreement, the College was not in compliance with its Debt Service Coverage Ratio at June 30, 2012 and will continue to remain out of compliance for the foreseeable future.

It is important to clearly reiterate the Board's intent as of 2007. The College's Quasi endowment was established and funded to support reimbursement of the loan agreement for construction of the science complex. Moreover, the Quasi endowment was to serve as collateral for the indenture of the Revenue Bonds, which are backed by a Letter of Credit with Bank of America. This would enable bond payments of interest and principal to be funded by the Quasi endowment until the 30-year loan agreement was satisfied.

At the annual meeting of the Wilson Board of Trustees held in May 2013, President Barbara Mistick presented an *Execution Plan Spending and Capital Needs Timeline by Project Type and Year*. (See Attachment 5.) President Mistick proposed spending the Quasi endowment for academic programming, marketing and capital needs related to the co-education initiative, and sought approval from the Board to begin implementing her plan.

This spending was approved over the objections of several Trustees, including the Treasurer, the Chair of the Investment Subcommittee, and other members of the Finance Committee. The Board was aware that the College was projecting an operating deficit of more than $3.6 million for FY13; the funding source of the deficit was the Quasi endowment. Additionally, the President was recommending spending for new program initiatives, bond payments, and capital projects amounting to more than $5.8 million for FY14. According to these projected budgets, which included nearly $9.5 million of approved spending from the Quasi endowment, only $2.5 million was allocated appropriately for bond payments. As a result, $7 million of the Board authorized spending of the Quasi endowment for FY13 and FY14 was approved for purposes other than the bond issue with reckless disregard of the College's ability to meet its current loan obligations. [2]

> *Note 2:* Again quoting from the College's audited financial statements dated March 20, 2013, the following statements appear under Note 15. Management's Plan and Business Risk:
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> "For the year ended June 30, 2012, the College sustained a significant unrestricted operating loss. Due to the loss, the College failed to comply with its debt service coverage covenant as required by its letter of credit agreement. On February 25, 2013, the College received an amendment to the reimbursement agreement from the Bank of America that waived the following events of default as of June 30, 2012 (1) failure to achieve compliance with the Debt Service Coverage Ratio (2) failure to deliver timely the audited financial statements and (3) failure to deliver timely Covenant Compliance Certificate. The Amendment also increases the Letter of Credit Fee from forty-eight basis points (0.48%) to one hundred basis points (1.0%). This change is effective as of February 25, 2013. Had the Bank of America not agreed to waive the covenant, the College would have been forced to obtain alternate financing or settle the debt through the use of its quasi endowment. The College has entered into an interest rate swap contract with an institution related to the debt. Had the debt been called, the College would have likely settled or refinanced the contract liability associated with the interest rate swap agreement, which were valued as a liability of approximately $6,200,000 as of June 30, 2012. The College is current on all of its obligations including payments of interest related to the outstanding debt."

When the Board of Trustees authorized spending from the Quasi endowment for costs associated with the co-educational initiative, it demonstrated a reckless disregard for the College's ability to comply with the terms of the Letter of Credit agreement with the Bank of America, particularly in view of the existing default of one of its performance covenants. Therefore, it is not surprising that the Bank of America notified the College that the Letter of Credit would not be extended beyond its original term, which expires on November 7, 2015. For this reason, the College is required to obtain a Substitute Letter of Credit that is acceptable to the Bond Trustee. If the College is able to obtain an acceptable Substitute Letter of Credit, it is reasonable to expect that its terms will be more stringent and that it will cost more than the current Letter of Credit. If the College is not able to obtain a Substitute Letter of Credit, it will be in default of its loan agreement. Because of the approved spend-down of the Quasi endowment, the College will be unable to meet its existing debt obligation.

Furthermore, President Mistick's *Execution Plan Spending and Capital Needs Timeline* assumes unprecedented enrollment growth from 679 students in FY13 to 1645 students in FY21, as well as surplus revenues from the operating budget, commencing in FY16, primarily based on projected revenues from the co-educational initiative. This growth is illusory, and the revenue projections are wholly unrealistic. If the Board continues to approve spending from the Quasi endowment based on President Mistick's *Execution Plan Spending and Capital Needs Timeline* that supports spending on capital projects for implementation of the co-educational initiative, the College's Quasi endowment will suffer disastrous reductions in asset value. According to the President's plan, the projected spending effect on the overall endowment, including the annual draw and revenues from unprecedented enrollment growth, demonstrates that funds in the Quasi endowment will drop from $27.37 million to $7.66 million during the period from FY13 to FY21, which expressly threatens the repayment plan for the bond loan agreement and the College's existence.

Best practices in good governance dictate that a Board conduct independent review and analyses of any proposed recommendations. This did not occur at Wilson. The record shows that the Board of Trustees approved President Mistick's plan of strategic recommendations, including a recommendation to extend co-education to the undergraduate residential program, irrespective of the following considerations:

- Failure to implement the necessary process to review, discuss and analyze recommendations and, most importantly, to address and resolve legitimate concerns raised by Trustees and others,
- Absence of an independent review as requested by Trustees
- Failure to conduct a marketing feasibility study to determine the viability of co-education at Wilson,
- Inadequate analysis of capital expenditures as recruiting tools for the co-education initiative,
- Failure to adequately analyze and address risks and other adverse consequences,
- Gross mismanagement of the Quasi endowment funds,
- Improper reliance on faulty analysis, assumptions and revenue projections provided by a consultant, Stevens Strategy.[3]

Note 3. Stevens Strategy states that one of its values is "a dedication to making impossible change happen for our clients." In recent years, Stevens Strategy has been instrumental in the implementation of co-education initiatives at seven women's colleges, with four in Pennsylvania. It is evident that Stevens Strategy's template for success for all women's colleges is co-education.

Despite intense lobbying efforts by President Mistick and Board Chair Gibb to support the President's initiatives, eight (8) Trustees opposed the recommendation for Wilson College to become co-educational, resulting in the first divided vote in the Board's recent history. It is the responsibility of Board chairs to show leadership in building consensus among members of the Board. Not only did the Board Chair Gibb fail to build consensus, he actively opposed any Trustee who raised questions and concerns about the President's recommendations.

In conclusion, the Board of Trustees failed to conduct due diligence on the President's recommendations, including the recommendation for Wilson to extend co-education to the undergraduate, residential program, and furthermore, has approved spending the Quasi endowment for purposes other than for which it was intended and required under the terms of the loan agreement. Because the Board failed to adequately assess risks and other adverse consequences of President Mistick's plan, the College's application to amend its Articles of Incorporation should be denied.

III. Argument B - False and Misleading Information Presented to the Board of Trustees: President Barbara Mistick with the assistance of Stevens Strategy, a consulting group engaged by the President, submitted false and misleading information to the Board of Trustees in order to obtain approval of the President's co-educational initiative.

When President Barbara Mistick submitted her report to the Board of Trustees, it included a list of strategic recommendations and Predictive Financial Models for decision-making. The Predictive Financial Models, developed with the assistance of Stevens Strategy, were overly complex, difficult to understand, and fraught with false and misleading information. These models, dated November 29, 2012, included the following:

- *Schedule 1 – A:* Financial Summaries – Reduced Endowment Return, Nine Year Status Quo, FY12-FY20 *(Based on enrollment growth to 785 students)* (See Attachment 6.)

- *Schedule 1 – B*: Financial Summaries – Reduced Endowment Return, Nine Year Action Plan for All Except CFW Co-Education, FY12-FY21 *(Based on enrollment growth to 1459 students)* (See Attachment 7.)

- *Schedule 1 – C*: Financial Summaries – Reduced Endowment Return, Nine Year Action Plan with Co-Education, FY12-FY21 *(Based on enrollment growth to 1761 students)* (See Attachment 8.)

The above-mentioned schedules were submitted to the Board of Trustees in hard-copy format without the benefit of ancillary worksheets or Excel formulas. Lack of this supporting documentation made it impossible for even the most financially savvy Trustees to analyze these Schedules appropriately. Fourteen (14) Trustees voiced their concerns and demanded additional information requesting: 1) resynthesis of the data, and 2) business analyses of the return on investment for each recommendation.

On December 21, 2012, President Mistick provided additional information to the Board - once again in hard copy format only. At no time did the Board receive business analyses of the return on investment for each initiative. Instead, President Mistick reiterated that the Board must make its decisions at a strategic level, not concern itself with details, and approve all the recommendations together, stating that the proposed model for co-education would not work otherwise. After having received the additional information from President Mistick, several Trustees, including Ms. Tishok[4], conducted in-depth analyses, while other Trustees simply proceeded to make their decision based on incomplete and inaccurate information, under an arbitrary and rushed deadline.

> Note 4: Ms. Paula Tishok's experience includes thirty-five years of financial management and operations analysis in both corporate and non-profit sectors. In addition, Ms. Tishok served seven years as a Trustee on the following committees: Executive, Finance, Advancement, and Enrollment Management and Student Life, and two years as Vice-Chair of the Board and Chair of the Trusteeship/Governance committee.

Ms. Tishok presented her findings to and personally spoke with several Trustees on the Finance, Investment, and Buildings and Grounds Committees in early January 2013, prior to the Special Meeting of the Board on January 13, 2013, all of whom expressed their concerns about the misleading and inaccurate information provided by President Mistick. At the January Special Meeting, Ms. Tishok prepared and distributed her findings to the full Board, but she was not permitted by Board Chair Gibb to report on her findings with the remaining members and, furthermore, no discussion of Ms. Tishok's findings was allowed.

Ms. Tishok's review and analyses of the supplemental information provided to the Board in December 2012 by President Mistick found that revenue from co-education would result in increases of $25 million in net tuition and $7 million in auxiliary revenue for a total of approximately $32 million over the nine-year period from FY13 to FY21. However, a comparative analysis of the Predictive Financial Models revealed a clear inconsistency. The variance in net tuition and auxiliary revenues when comparing Schedule 1 – B to Schedule 1 – C is shown as $46.8 million, not $32 million, with nearly all of the unsubstantiated revenue appearing in the auxiliary revenues line.

President Mistick, with the assistance of Stevens Strategy, manipulated the Predictive Financial Models by including nearly $14 million in unsubstantiated auxiliary revenues that served, in part, to mislead the Board into believing that co-education was a viable option for Wilson College.

Further analysis by Ms. Tishok of predicted revenues in the Predictive Financial Models revealed other mathematical anomalies. For example, the sum of the revenue lines does not equal the amount for Total Revenue Gains and other Support. Revenue that is not shown on the Predictive Financial Models includes Net Assets Released From Restriction, or the endowment draw released for operations, currently 6.75 percent annually of the three-year rolling average of endowment funds. It is not clear why these funds do not appear on the worksheets, since the endowment draw typically is shown on operating statements. These figures were not provided to the Board for review and analysis.

Ms. Tishok questioned this mathematical anomaly and subsequently received a "Detail of Revenue" supplemental worksheet, entitled the Nine-Year Action Plan with Co-Education, dated January 22, 2013 (see Attachment 9) from President Mistick that included the missing information. The "Detail of Revenue" supplemental worksheet should have been provided to all Trustees prior to the Board's decision for the College to become co-educational., because it provided some of the missing pieces of information that Trustees questioned, but were not given the opportunity to review and analyze.

After having received the "Detail of Revenue" supplemental worksheet, Ms. Tishok had more questions and concerns about the data and after further review uncovered something even more troubling. Unrestricted private gifts, grants and contributions, which are comprised of the annual Wilson Fund and other unrestricted gifts are shown with projected amounts ranging from $3 million in FY13 to over $4.5 million in FY21, and unrestricted revenue from Other Sources is shown at nearly $800,000 annually for the nine-year term. Based on the College's past performance, these predictions were not only wholly unrealistic, but also false, since the average Unrestricted giving for private gifts, grants and contributions and unrestricted operating revenue from Other Sources during the period from FY08 through FY12 altogether totaled $1.3 million according to data provided by the College's Advancement Office of Fundraising Results, FY08 – FY12. (See Attachment 10.)

Furthermore, it is most disturbing that these erroneous predictions were developed by Stevens Strategy months before the work done by the *Commission on Shaping the Future of Wilson College* (hereinafter the "*Commission*") and appear on worksheets for the Presentation of Institutional Data on May 16, 2012. (See Attachment 11.)

In May 2012, the *Commission* was appointed and directed "to conduct a focused strategic review of Wilson College to determine a transformational scenario for the College to position itself to thrive and become financially sustainable." Upon completion of the *Commission's* work, Trustees were advised that members of the *Commission* had done significant and substantial work including the following: a) locating and analyzing material, b) assessing and compiling data, and c) gathering and studying enormous amounts of material, in order to develop a set of strategic ideas and proposals that were presented in their final report to the President.

Because Trustees were advised that the *Commission* had done significant and substantial work, it is inconceivable and completely unacceptable that members of the *Commission*, including the College's Vice President of Institutional Advancement and the Vice President of Finance and Administration, did not review and correct erroneous predictions on unrestricted giving from Stevens Strategy prior to submission to the Board of Trustees. Moreover, it is unacceptable that the Board was not able to review and analyze the "Detail of Revenue" supplemental worksheet, which would have revealed that erroneous data. Instead, the Predictive Financial Models did not identify unrestricted revenue as a separate line, but included it in the Education and General line. It is clear that unrestricted revenue from private gifts, grants and contributions, and operating revenue from other sources on the Predictive Financial Models was significantly overstated, in excess of $27 million for the nine-year period. This erroneous data further served to mislead the Board into believing that co-education was a viable option for Wilson College.

The *Commission* was designed to facilitate agreement with all constituencies by asking the questions: (1) What are the distinctive strengths of Wilson that will shape the College's opportunities in the future, and (2) what obstacles impede Wilson's growth and development? Furthermore, President Mistick pointed out that the Strategic Plan's Goal C called for setting and achieving optimal enrollment goals, but lacked a roadmap for how the College could grow. That missing piece was what the *Commission* would be asked to provide.

The College had been operating with an average enrollment of 750 undergraduate students over the past decade from 2001 through 2011. Also, the College had previously developed an enrollment goal of 1,000 students in the Strategic Plan 2010-2015. In May 2012, the *Commission* was given an enrollment goal of 1,325 students and was asked to identify programs to achieve that goal. By October 2012, the *Commission* had, in fact, identified strategic ideas that if implemented would result in enrollment growth to 1,325 students, excluding implementation of co-education. After this milestone was achieved, which was late in the *Commission* process, President Mistick increased the target enrollment goal to a seemingly unrealistic "financial sustainability" goal of 1,500 students, as shown in *Recommendation 2. Extend Co-education to the Undergraduate College*.

One month later in November 2012, members of the *Commission* presented data from their sub-committee reports in Pricing, Marketing & Retention, Distinctive New Programs, Health Services and Co-education that attempted to identify strategic ideas that if implemented could be expected to attract enough additional students to achieve the enrollment goal of 1,500 students. Members of each of the sub-committees supplied that data to Stevens Strategy for inclusion in the summary Predictive Financial Models, as shown in the attachments herein. The

*Commissio*n’s final report was submitted to President Mistick in early November 2012, and subsequently, the Board of Trustees received the President’s report on November 19, 2012. In the President’s report and the Predictive Financial Models, the enrollment goal for Wilson College was inexpicably increased, for a third time, by the President to 1,761 students without any additional supporting data or documentation from the *Commission.* For this reason, it is fair to conclude that the unsubstantiated enrollment goal of 1,761 students was manipulated to support the President’s co-education initiative and to convince Trustees that Wilson could not survive as a women’s college. As a result, a majority of the Trustees were misled into believing that they had to approve a fundamental change to the College’s mission to extend co-education across all programs. Many Trustees were openly skeptical about the enrollment goals set forth in the President’s report and the Predictive Financial Models, calling them illusory and unrealistic. And yet, these goals were critical to the Board's decision for Wilson College to become co-educational.

As with all colleges, net tuition revenue is based on the number of enrolled students and auxiliary revenue, including student room and board, is based on the number of residential students. Total annual operating revenues were predicted to grow from $19 million in FY13 to $51 million in FY21, or a 168% increase, according to the co-educational model. The College is largely tuition dependent; therefore, the inability to achieve enrollment goals has a drastic, negative impact on operating revenues.

In December 2012, Ms. Tishok developed analyses of tuition revenue in the Predictive Financial Models that revealed more troubling anomalies. As mentioned previously, Ms. Tishok presented her findings to and personally spoke with several Trustees on the Finance, Investment, and Buildings and Grounds Committees in early January 2013, prior to the Special Meeting of the Board on January 13, 2013, all of whom expressed their concerns about the misleading and inaccurate information provided by President Mistick. At the January Special Meeting, Ms. Tishok prepared and distributed these analyses to the full Board, but was not permitted by Board Chair Gibb to report on her findings with the remaining members.

The Predictive Financial Models were developed and presented as summary data compiled from multiple ancillary worksheets. Accordingly, Schedule 1-A, the Nine-Year Status Quo was used as the base document, and to which were added all other ancillary worksheets. Using data from the *Comprehensive Summary and Summary Business Case of President’s Recommendations* (see Attachment 12), analysis of tuition revenue revealed even more unsubstantiated revenue.

The Tuition Revenue Analysis, prepared by Ms. Tishok, (see Attachment 13) summarized tuition revenue from Schedule 1-A and the *Comprehensive Summary and Summary Business Case of President’s Recommendations* and compared it to the data provided on Schedule 1-C, which was presented as the summary Nine Year

Action Plan with Co-education. In this Tuition Revenue Analysis, variances are clearly revealed in both tuition revenue and enrollment, making it apparent that data was manipulated in the Predictive Financial Model, Schedule 1-C, totaling nearly $58 million in unsubstantiated revenue. It is also important to note that this analysis also revealed that the enrollment goal of 1,761 students was fabricated and clearly not supported by the *Comprehensive Summary and Summary Business Case of President's Recommendations.*

The Comparative Analysis, prepared by Ms. Tishok, (see Attachment 14) compares net tuition revenue per student enrolled in the co-educational program with the unsubstantiated tuition revenue of nearly $58 million. In this Comparative Analysis, net tuition revenue per student varies widely from negative values in net tuition revenue to nearly $64,000 of net tuition revenue per student, with an average of $33,000 per student over the nine-year period. This contrasts with the average net tuition of $15,000 per student enrolled in the co-educational program during the nine-year period. Clearly, data was manipulated on Predictive Financial Model, Schedule 1-C, since the current average net tuition per student at Wilson College is approximately $11,000.

In conclusion, the President's Plan and the Predictive Financial Models with the recommendation for the College to become co-educational contained false and misleading information, including tens of millions of dollars in unsubstantiated net tuition revenue and unrestricted operating revenue, and was subsequently presented to the Board of Trustees for their decision. The cumulative result of false and misleading information presented for the nine-year period included, but was not limited to, the following:

- Unsubstantiated auxillary revenue of nearly $14 million,
- Significantly overstated unrestricted revenue from private gifts, grants and contributions, and operating revenue from other sources, in excess of $27 million,
- Unsubstantiated net tuition revenue totalling nearly $58 million, and
- Unsubstantiated enrollment goal of 1,761 students, irrespective of the lack of data and documentation or a conclusion from the *Commission* that the College could achieve that enrollment goal.

In conclusion, the College's application for approval to amend its Charter should be denied because the Board of Trustees failed to independently review and analyze the Predictive Financial Models and because it knowingly failed to address the above-identified false and misleading information, even though Ms. Tishok presented to and discussed her analyses with key Trustees prior to the Board's action to extend co-education to the undergraduate, residential program. Furthermore, critical information found in the "Detail of Revenue" supplemental worksheet was knowingly withheld from the Board.

IV. Argument C - Failure to Uphold the Historic Mission of Wilson College: The Board of Trustees ignored its own decisions reaffirming the identity of the College for Women and failed to uphold its 144-year historic mission. Boards have the ultimate responsibility for governance, and as such are accountable for the mission and heritage of their institutions. They are equally accountable to their institutions' constituents.

To understand the nature of the proposed changes to Wilson College's Charter and the upheaval these changes have and will cause the entire College community, it is critical to review the Board's recent actions regarding governance.

Actions regarding Governance by the Board of Trustees, 2008 – 2011

In order to distinguish Wilson College in the competitive educational marketplace, the Board of Trustees engaged Carnegie Communications in the fall of 2008 to conduct a branding initiative that utilized qualitative research to determine those characteristics that make Wilson a unique educational experience. (See Attachment 15.) Extensive research was conducted through focus groups and individual interviews including over 180 people from ten different college constituencies, which resulted in identifying themes that were articulated by all participants. One of the purposes of the branding initiative was to allow target audiences to easily understand or communicate the essence of Wilson in a differentiating and relevant way that was linked to the vision, mission and core values of the College. One of the themes from this initiative is stated below:

> "**Puts women at the center** – From the moment they enter, Wilson women are provided with an exceptional academic education, core values that create women of integrity, leadership opportunities, and an outward-looking orientation that prepare them for tackling the world's most fundamental issues."

The branding initiative provided the foundation for developing and guiding Wilson's identity in the marketplace.

In the fall of 2009, shortly after completion of the branding initiative, the Board of Trustees held an off-campus retreat to review the College's progress in meeting the goals of the Strategic Plan 2004-2009. The Board concluded that Wilson's response to the Strategic Plan had been excellent, but was hampered by the economic downturn and its impact on Wilson's endowment growth, as well as by the financial obligation incurred to construct the Brooks Science Complex and the shortfalls to the College's goals for overall enrollment growth. During this retreat, the Board of Trustees identified four major areas where intentional, transformative work needed to be done to move the College forward. These were: (1) Mission, (2) Financial Planning, (3) Academic Programming, and (4) Technology. The Board presented its suggestions to former President Lorna Edmundson in a letter dated December 10, 2009, commonly known as the "We Believe" document. (See

Attachment 16.) These suggestions were meant to complement and assist the College in the development of the next strategic plan and to respond to the recommendations contained in the 2009 Middle States Commission on Higher Education's Report.

In the "We Believe" document, the Board of Trustees unanimously affirmed the following statement regarding the future mission and purpose of Wilson College:

> "We believe that Wilson's Mission should continue to be centered on undergraduate education in the liberal arts and sciences for women, while explicitly incorporating our graduate and adult degree programs. Our distinguishing capability lies in our highly integrative learning model, which addresses the deliberate development intellectually, spiritually, personally, and professionally, of the Wilson Woman and all Wilson students. Wilson's distinctive model derives from our history as a small women's college with emphasis on how women think and learn, and the extension of traditional liberal arts, sciences and math studies viewed through a woman's lens."

Due in large part to the unanimity of the Board of Trustees, the College administration embraced the "We Believe" document as the best way to move the College forward, and in collaboration with the entire community of faculty, staff and students, began in earnest to develop a new vision and mission statement for the College as part of the strategic planning process. In 2010, the Board of Trustees unanimously approved the following vision and mission statements:

> "Vision – Wilson College will gain national recognition as a small, independent college known for its academic strength, distinctive pedagogy, innovative programs, and well-prepared graduates."

> "Mission Statement – Wilson is an independent college with a proud history of educating women since 1869 through rigorous study of the liberal arts and sciences. Today, Wilson's mission also includes women and men enrolled in adult degree and graduate programs. Guided by the Honor Principle and distinguished by its commitment to transformative student growth, Wilson College prepares all of its graduates for fulfilling lives and professions, ethical leadership, and humane stewardship of our communities and our world."

It is important to note that a deliberative process, beginning in the fall of 2008, led the College community to reaffirm this distinctive women-centered learning model in order to respond to the 2009 Middle States accreditation process and throughout the development of the Strategic Plan 2010-2015, which includes the revised vision and mission statements above. (See Attachment 17.)

In addition to the work done for the Strategic Plan 2010-2015, the Board of Trustees retained an executive search consulting firm, Archer~Martin Associates, in 2010 to assist the community in selecting its next president. Archer~Martin held numerous meetings with every constituency to determine the leadership qualities and capabilities necessary to move the College forward while remaining true to its mission. In fact, Archer~Martin reported to the Board that all of the constituents were committed to assuring that Wilson remain a women's college. Based on these meetings, the College developed a *Leadership Profile 2010-2011* (see Attachment 18) that defined these leadership qualities and capabilities below:

> "The Wilson community expects the next president to be visible, friendly, and accessible to students, faculty and staff. This individual must resonate with the College's mission, its Honor Principle and its traditions – and embrace the necessary role of women-centered education."

The Board of Trustees appointed a Presidential Search Committee and approved its charge to ensure that the mission of Wilson College and its future direction would be upheld. The Presidential Search Committee embraced that leadership qualities and capabilities as set forth in the *Leadership Profile 2010-2011* and the commitment of the College to support women-centered education. In examining all candidates, the Committee took this charge seriously and rejected any candidate who did not meet the threshold of resonating with the College's mission.

Ultimately, the Presidential Search Committee recommended and the Board of Trustees approved Barbara K. Mistick as Wilson's next president based on the leadership qualities defined in the *Leadership Profile 2010-2011* and her answers the Committee's questions aimed at determining her commitment to Wilson's vision and mission with respect to a women's centered education.

In summary, the Board of Trustees in an intentional and deliberative manner engaged the entire campus community in defining the strategic direction for the College. During these past years since the branding initiative, the College successfully accomplished the following:

- Conducted comprehensive research to identify those distinctions that make Wilson a unique educational experience.
- Responded to the 2009 Middle States Commission on Higher Education Report for its accreditation process.
- Developed a Strategic Plan 2010-2015 that incorporated newly revised vision and mission statements.
- Selected and hired a new president for the College in 2011 based on criteria determined by the community-at-large and defined in the *Leadership Profile 2010-2011.*

The College's success was due in large part to the unanimous decisions of the Board of Trustees setting the tone for a unified approach in dealing with tough issues, and because the Board actively engaged, effectively collaborated, and successfully built consensus with the entire Wilson community.

Actions regarding Governance by the Board of Trustees, 2012 - 2013

In October 2011, newly appointed President Barbara K. Mistick proposed that the Board of Trustees authorize a commission to study and recommend opportunities to sustain Wilson College's future. The commission was designed to facilitate agreement with all constituencies by asking the questions: (1) What are the distinctive strengths of Wilson that will shape the College's opportunities in the future, and (2) what obstacles impede Wilson's growth and development? Furthermore, President Mistick pointed out that the Strategic Plan's Goal C called for setting and achieving optimal enrollment goals, but lacked a roadmap for how the College could grow. That missing piece was what the commission would be asked to provide.

President Mistick and the Chair of the newly-formed commission, therefore, appointed members to the *Commission on Shaping the Future of Wilson College* (herein the *"Commission"*) in May 2012, who were directed "to conduct a focused strategic review of Wilson College to determine a transformational scenario for the College to position itself to thrive and become financially sustainable." A key element of financial sustainability was the College's ability to grow enrollment using various marketing strategies. Moreover, the concept of financial sustainability was both inherent in and critical to the Board's decision-making process.

The *Commission* was composed of 23 members, two-thirds of whom were College administrators, faculty and staff, appointed by the President. The Board recognized the inherent conflict of interest in a *Commission* populated primarily with cabinet members, faculty and administrative staff under her direct supervision, but took no action to remedy this material deficiency. Based on the Board's approval in October 2011 and the composition of the *Commission*, many Trustees believed and expected that the *Commission's* work, similar to the work of any institutional committee, would be developed in conformance with the College's vision, mission and strategic direction as stated in the Strategic Plan 2010-2015.

It is important to note that the *Commission's* work on behalf of Wilson College, which was conducted from May 2012 through October 2012, did not result in a set of recommendations to the President. Members of the *Commission* were not given adequate time to complete their work and did not utilize a deliberative process that may have resulted in the development of recommendations. Rather, the members presented a report to the President with a set of strategic ideas and proposals that they themselves acknowledged needed more evidence-based and rigorous analysis.

In October 2012, the Board of Trustees learned for the first time that the President was planning to include a recommendation to the Board to extend co-education to the undergraduate residential program, as a marketing strategy to boost enrollment growth. However, the *Commission* did not recommend co-education. No marketing feasibility study was completed. No analysis was made regarding the impact of male residential students on the current population of residential students, particularly the Women with Children program. No analysis was made of capital expenditures as recruiting tools, such as upgraded athletic facilities and playing fields. Instead, in its final report, the *Commission* recommended that the Board address the vision and mission of the College separately from all other strategic ideas for the College since redefining the mission of the College was not part of the *Commission's* work. (See Attachment 19.)

> "While it is the responsibility of the Board of Trustees to approve the mission of President of the College and the Board of Trustees to lead the entire community – using the structure they best deem fit – in an exploration of Wilson's historic and current Mission and Vision in light of the changes the College will adopt. This process must involve all members of the Wilson community."

It is important to note that neither the President nor the Board of Trustees led an effort to engage the entire community in the development of its vision and mission, ignoring the advice of the *Commission* that had been appointed to study and recommend opportunities to sustain Wilson College's future.

Because the President was recommending a fundamental change to the mission of the College, many Trustees were gravely concerned. On November 3, 2012, the Executive Committee of the Board met to review the preliminary recommendations of the President. The Executive Committee raised many questions, including those about governance, and further clarification was requested on the Financial Predictive Models presented by the President. At this meeting, Board Vice-Chair Paula Tishok presented prepared remarks stating that the *Commission* exceeded its purview. The minutes of the Executive Committee meeting include the following statements attributed to Ms. Tishok: (See Attachment 20.)

> The Trustees are responsible for upholding the mission; the co-ed option does not conform to Wilson's mission and vision. Therefore, she recommended that only those ideas put forth by the *Commission* that conform to the mission should be brought to the Board at the special Board meeting. In the spring of 2013, the Board and President should take up the mission and decide when or whether to consider co-education. Tishok concluded her remarks by stating, "Since this is a governance matter, each Trustee has a fiduciary responsibility to determine the College's fundamental purpose and clarify what makes the college distinctive to prospective students. Therefore, the Board of Trustees in conjunction with the entire College community must examine the history and traditions of Wilson College as a place where we celebrate and cherish its heritage as a small, liberal arts college focused on a women's centered curriculum."

Subsequently, on November 22, 2012, Board Chair John Gibb sent an email message to all Trustees at the request of Board Vice-Chair Paula Tishok. (See

Attachment 21.) In this message, Ms. Tishok, in her role as Chair of the Trusteeship/Governance Committee, addressed the Board's governance responsibilities with the following words:

> "As we consider the President's recommendations, we must examine how to properly exercise our governance responsibilities in determining the strategic direction for the College. A reflection on good governance is in order. The AGB's guide for *Effective Leadership* states, 'the first duty of the trustee is to understand the purpose of the institution, to determine direction, and to assist in holding a steady course.'
>
> Reaffirming or changing the College's vision, mission and strategic direction are the governing board's responsibility, and the Board of Trustees must properly reserve to itself and not abrogate to others that responsibility. Therefore, it is critical that we have a full and complete understanding of the Board's past governance actions with respect to the vision, mission and strategic direction of the College."

Furthermore, Ms. Tishok outlined the Board's most recent past governance responsibilities beginning with extensive qualitative market research conducted by Carnegie Communications in 2009 to determine those characteristics that make Wilson a unique educational experience.

Ms. Tishok concluded that the Trustees must take steps to move the process forward in a deliberative and responsible manner that will build consensus and enable success. Ms. Tishok identified the first of these steps, as follows:

> "The Board of Trustees must decide whether and when it will reexamine Wilson College's vision and mission which mandates a commitment to a women's centered education and defines its fundamental purpose for existence. This examination is not taking the President's recommendations off the table, but rather prioritizing the work of the Board in the exercise of its fiduciary responsibility. Any reexamination of the College's mission must be done by the Board as a whole, resulting in a decision that is unanimous and unequivocal, so as to provide a strong foundation for the entire College community."

Although Ms. Tishok expressly recommended that the Board take up the matter of the College's mission and vision separately from the Commission's process, this did not occur. Moreover, the entire College community was divided over the President's plan. Many Trustees and faculty were concerned about the financial viability of the College; furthermore, many alumnae and students were gravely concerned about the dissolution of the College for Women.

AGB's *Statement on Board Responsibility for Institutional Governance*, March 26, 2010 delineates the ultimate responsibility for governance, as follows: "Boards are accountable for the mission and heritage of their institutions and the transcendent values that guide and shape higher education; they are equally accountable to the public and to their institutions' legitimate constituents."

Therefore, it was the obligation of the Board of Trustees to show leadership in carrying out its governance duties and responsibilities and to insist on an in-depth understanding of the President's recommendations based on quantitative and qualitative financial analyses. The Board failed to recognize its fiduciary duty to the College community, which has high expectations that the Board will act with utmost integrity in carrying out its duties. Moreover, the Board did not reserve the right to review, challenge and override recommendations it judged to be inconsistent with its mission. For these reasons, the College's application to amend its Articles of Incorporation should be denied.

V. Argument D - Improper reliance regarding the proposed amendments to the Articles of Incorporation: The Board of Trustees improperly relied on incorrect or misleading advice from the College's outside counsel in reviewing and approving proposed amendments to the Articles of Incorporation and Bylaws.

On January 13, 2013, the Board of Trustees met in a special meeting to review President Mistick's strategic recommendations. During this meeting Elizabeth Maguschak, counsel from the Harrisburg law firm of McNees, Wallace & Nurick, was introduced as legal counsel for the College. Trustees were advised that Ms. Maguschak's practice is higher education where she serves as counsel for several colleges in Pennsylvania, as noted in the minutes of the Board of Trusteess meeting on January 13, 2013. (See Attachment 22.)

Shortly after Ms. Maguschuk's introduction, the following statements were recorded in the approved minutes:

> "Maguschak briefly reviewed the role and duty of board members, noting that their duty is to exercise fiduciary responsiblity for the welfare of the institution. They are held to the standard of a "reasonable person," not expected to be an expert in all legal, financial, economic and academic matters. They may rely on input from others with more expertise in other areas."

During this meeting, Ms. Maguschak confirmed that the 1993 version of Wilson College's Articles of Incorporation and Bylaws was binding and superseded all other versions, as stated within the document, and specifically that Section 3(a) of these Articles of Incorporation states that "the purpose is to operate a college for women, which offers a residential opportunity, and in addition, to operate a coeducational college of continuing education."

During the discussion, Trustee Pamela Kiehl asked if making the decision to go coeducational would be irreversible. The minutes reflect the following:

> "Legal counsel Liz Maguschak stated that nothing is irreversible; the charter could again be changed."

Ms. Maguschak made this definitive statement even though she admittedly had not explored the issue of Title IX's effect on reversibility of a charter for a women's college.

Ms. Maguschak was ill-prepared to address questions from the Board and some Trustees were not confident that Ms. Maguschak was providing accurate and necessary advice on the issue of co-education. Expressing her own concern about legal representation for the Board, the minutes reflect the following statement:

> "Susanna Duke, speaking as a lawyer, reminded the Board that Liz Maguschak represents the administration of the College and, if needed, the Board should consider hiring its own counsel."

Following this meeting and the Board's decision to extend co-education to the undergraduate, residential college, the Board failed to hire its own counsel. Rather, the Board continued to improperly rely on Ms. Maguschak with respect to matters on the Articles of Incorporation and Bylaws.

In February 2013, the Executive Committee of the Board met with Liz Maguschak who presented a revised Charter (Articles of Incorporation) and revised Bylaws for Wilson College. In her memorandum, Ms. Maguschak clearly stated: "revisions to the Charter were made to bring it in line with current law and best practices and to ensure consistency between the Charter and the Bylaws." (See Attachment 23.) At this meeting, Ms. Maguschak presented a red-lined version of the Charter and Bylaws for review. (See Attachment 24.)

However, the Board had previously appointed a subcommittee on governance to review the current Bylaws. For this reason, the Executive Committee referred the documents prepared by Ms. Maguschak to the subcommittee on governance under the leadership of Trustee Marsha Sajer, partner at KL Gates LLC, for further review. Ms. Sajer and members of the subcommittee relied on AGB's book, *Updating Board Bylaws*, to significantly amend the current Bylaws. Furthermore, the subcommittee relied on the work done on the Charter by Ms. Maguschak, not only because of her assertion that she had made the required changes to be consistent with current law and best practices, but also due to her expressed expertise in matters related to higher education.

On April 8, 2013, Board Secretary Liz McDowell transmitted the work of the subcommittee to the Board of Trustees. (See Attachment 25.) In her memorandum, Ms. McDowell reiterated the process, but did not make clear that the subcommittee relied on Ms. Maguschak's interpretations of Pennsylvania law with respect to proposed amendments to the Charter. In fact, the subcommittee's work was almost entirely devoted to developing proposed amendments to the Bylaws, and not to reviewing Ms. Maguschak's recommendations for amending the Charter, as shown on the red-lined versions presented to the Board of Trustees. (See Attachment 26.) Furthermore, Ms. McDowell presented a summary of changes to the Bylaws prepared by Ms. Sajer in her role as chair of the subcommittee that does not include any mention of proposed changes to the Charter, giving further evidence of the subcommittee's reliance on Ms. Maguschak's interpretations of current law and best practices. (See Attachment 27.)

At the annual meeting in May 2013, the Board of Trustees was asked to approve the proposed amendments to the Charter and Bylaws as presented by Board Secretary Liz McDowell. Ms. McDowell reiterated the assertions in her April 8, 2013 memorandum that both Ms. Maguschak and the subcommittee on governance had reviewed current law, specifically Pennsylvania's Nonprofit Corporation Law, with respect to the proposed amendments. Furthermore, members of the Board were allotted a mere fifteen minutes to discuss or debate any of the proposed changes to the Charter or Bylaws prior to the vote.

It is important to note the Ms. Maguschak never reported on the implications of Title IX's effect on reversibility of a charter to a women's college, even though she was asked to do so by the Board. Apart from the co-educational issue, the Board of Trustees unwittingly approved changes to the Charter that do not comply with Pennsylvania law, as noted in the brief prepared by Melissa Behm '76, and improperly relied on legal counsel engaged by the College for that purpose, rather than obtaining separate and independent legal advice. Had the Board received accurate and timely legal advice, particularly with respect to the issue of reversibility, it likely would not have approved changes to the Charter.

VI. Current situation at Wilson College

Numerous public statements from the current administration began to appear in news articles in 2012 warning of an imminent "fiscal cliff" at Wilson College, describing the College as "the tiny, all-female college" whose students and faculty members had "come to accept as its usual condition: threadbare." These statements and further assertions about Wilson's "dire financial straits" startled, shocked and eventually splintered the College community. With these public statements, the administration was not only damaging Wilson's reputation, but also setting the stage to attempt a fundamental change to Wilson's historic mission of educating women.

In stark contrast to the College's assertions, *Forbes Magazine* and *The Chronicle of Higher Education* published rankings about the financial condition of US Colleges with enrollment greater than 500 students for fiscal year 2011. *Forbes* compiled data from 900 colleges using criteria such as Endowment Assets per FTE, Primary Reserve Ratio, Viability Ratio and Core Operating Margin to make its determinations for rankings. *Forbes* financial GPA for Wilson College was 4.031 out of a possible 4.5, giving Wilson an "A" rating and ranking Wilson at #73 nationwide. Similarly, *The Chronicle* gave Wilson its highest rating of 3.0.

It is important to note that these independent rankings were based on Wilson College's financial condition in 2011 after its leadership team faced the economic recession that began in 2008, when the fiduciary responsibility of the Board was never more clear or more critical. Due in large measure to the expertise of the Board and prudent stewardship by the College's administration during the recession, Wilson managed to weather the recession without laying off or furloughing any employees, a feat few other colleges and universities were able to achieve during the depths of the downturn. Moreover, Wilson College's total assets rose from $89.7 million in FY07 to $118.3 million in FY11, despite the recession, according to Wilson's audited annual financial reports.

During this period, members of the Board developed guidelines to achieve financial equilibrium by 2015 by setting forth twelve (12) financial policy goals that were approved by the Board in May 2011. Two of these goals are noteworthy to mention:

1. "Notify Finance Committee of quarterly financial results including an assessment of risks that debt covenants may not be met. Changes in a deteriorating direction will trigger consideration of retrenchment actions to remain compliant with the covenants."
2. "Fund Depreciation at 10% of the previous year's building depreciation expense by 2015."

In the past three years, Wilson College has experienced some dramatic and detrimental changes. Some examples include the following:

- Most importantly, the 144-year mission and vision of Wilson College has been abandoned, eliminating Wilson's historic and successful role in educating women. The mission, relevant in today's world, has been replaced by a strategy based on a flawed assumption that by simply declaring Wilson to be co-educational enrollment will grow significantly.
- The Wilson College Honor Principle has been trampled with dissemination of false and misleading information on numerous occasions. For example, we now know from independent, reputable sources that Wilson College was not facing an imminent "fiscal cliff", which was the primary premise for the President's co-educational recommendation and Board's action.
- The John Stewart Memorial Library has been shuttered since October 2011, due to heating failures in the historic section of the Library. The annex to the Library, with its solid concrete construction, has remained viable and in use by staff only. Despite recommendations from Trustees for a financially and environmentally sustainable renovation that retains and enhances the existing annex, the President has recommended its destruction.
- Sarah's Coffeehouse, which served as the student center, was taken over in October 2011 by the administration to house temporary Library space.

Plans are underway to house a "temporary student center" in the basement of a residence hall at an astonishing cost of $500,000.

- With numerous news accounts of Wilson's "dire financial straits" and the pending co-educational decision, current students took flight. From Fall 2012 to Spring 2013, over 70 students transferred to other institutions or otherwise left campus, resulting in a spring enrollment of 611 students, including both undergraduate and graduate students. This severe decline is a precarious situation for Wilson since enrollment had been steadily averaging 750 undergraduate students over the previous decade. Total enrollment for spring 2014 has improved to 668 students, but that has been due to increased enrollment in graduate programs.
- Due to uncertainties at Wilson, nine (9) faculty members and numerous staff resigned or retired from Wilson. Many of them left Wilson for more stable employment opportunities.
- Wilson College alumnae, a crucial donor base, have been disenfranchised, resulting in precipitous declines in fundraising. Total fundraising results in FY12 amounted to $7.6 million; whereas, results in FY13 were a dismal $4.1 million.
- During the past two years, Wilson's administration failed to balance the budget resulting in significant net operating losses: $4.0 million in FY12, according to the most recent audited financial reports, and a projected $3.6 million for FY13. Wilson's FY13 audited financial reports for fiscal year ending June 30, 2013 have yet to be released.
- In June 2012, Wilson College breached one of its debt covenants with the Bank of America. No retrenchment actions have been taken to remedy the situation, and Wilson will continue in this breach for the foreseeable future. The Bank of America assessed a penalty for this breach by raising its Letter of Credit fees from forty-eight basis points (.48%) to one hundred basis points (1.0%), resulting in an annualized increase in fees of over $160,000.
- Moreover, the Bank of America notified the College that it would not extend its Letter of Credit beyond the expiration of its term, ending November 7, 2015. The College will be required to obtain a Substitute Letter of Credit, or face default of the loan agreement.
- In May 2013, the Board of Trustees approved an *Execution Plan Spending and Capital Needs Timeline by Project Type and Year* that allocated $5.8 million in spending for FY14. For the first time in Wilson's history, depreciation is now funded at 100%, a radical increase from the 10% goal approved by the Board in 2011. This approved spending will be funded from the Quasi endowment from funds previously reserved as collateral to pay the $31 million debt obligation for the science complex .

This is clearly not the type of transformative change that the Wilson College community expected when President Mistick took office in 2011. In fact, gross mismanagement of College's assets and resources on this scale and the reckless disregard for members of the College community has not been seen since the days of 1979. Therefore, the College's application to amend its Articles of Incorporation should be denied.

VII. Conclusion

The facts and information presented herein serve to prove that Wilson College's Application for Approval of a Certificate of Authority to Amend its Articles of Incorporation should be denied. The President's Plan is failing because its underlying assumptions and premises are false. Moreover, the Board of Trustees acted in a reckless manner, ignoring its fiduciary duty to the College and best practices in good governance.

This testimony establishes that the President's Plan is fraught with false and misleading information including unsubstantiated revenue projections, illusory enrollment goals and unrealistic assumptions for charitable giving and endowment growth. The Board of Trustees failed to conduct due diligence on the President's recommendations, including the recommendation for Wilson to extend co-education to the undergraduate residential program, and furthermore, has approved spending the Quasi endowment for purposes other than for which it was intended and required under the terms of the loan agreement. Because the Board failed to adequately assess risks and other adverse consequences of President Mistick's plan, the College's application for approval to amend its Articles of Incorporation should be denied.

Moreover, the Board of Trustees failed to independently review and analyze the Predictive Financial Models and knowingly failed to address the above-identified false and misleading information. Ms. Tishok attempted to present facts that disputed this false information and to discuss her analyses with Trustees prior to the Board's action to extend co-education to the undergraduate, residential program, but was prevented from doing so. Additionally, critical information found in the "Detail of Revenue" supplemental worksheet was knowingly withheld from the Board.

It was the obligation of the Board of Trustees to show leadership in carrying out its governance duties and responsibilities and to insist on an in-depth understanding of the President's recommendations based on quantitative and qualitative financial analyses including the return on investment for each initiative. The Board not only failed to perform its fiduciary duty to the College community, which has high expectations that the Board will act with utmost integrity in carrying out its duties, but also did not reserve the right to review, challenge and override recommendations it judged to be inconsistent with its mission.

Trustees unwittingly approved changes to the Articles of Incorporation that do not comply with Pennsylvania law and improperly relied on legal counsel engaged by the College for that purpose, rather than obtaining separate and independent legal advice. Had the Board received accurate and timely legal advice, particularly with respect to the issue of reversibility, it likely would not have approved changes to the Articles.

For these reasons, the College's application to amend its Articles of Incorporation should be denied. Immediate action is needed to reverse the disastrous course that the current administration and Wilson's Board of Trustees are pursuing.