

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

CLARKSBURG DIVISION

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS** for and on behalf of
WEST VIRGINIA UNIVERSITY,

Plaintiff,

v.

Civil Action No. 1:08-CV-00041
(Hon. John P. Bailey, District Judge)

RICHARD RODRIGUEZ,

Defendant.

NOTICE OF FILING OF LETTER OF CREDIT

Now comes the Defendant, Richard Rodriguez, by and through counsel, who hereby gives notice of the filing of a Letter of Credit in the amount of \$1,500,000.00. Because West Virginia University breached the employment agreement with Defendant, Defendant states that the maximum amount that could be owed by him to Plaintiff is \$1,500,000.00. Defendant hereby gives notice that he is depositing with the Clerk of this Honorable Court a Letter of Credit in the amount of \$1,500,000.00 which is valid for ninety (90) days, a copy of which is attached hereto as "Exhibit A". Defendant is filing this Letter of Credit in the spirit of compromise and as an act of good faith to assure West Virginia University that if this Honorable Court makes an award against Defendant said monies will be paid.

The amount of the Letter of Credit is equal to the maximum liquidated damages provision (penalty) at the date of termination provided for in the first amendment to the original

Employment Agreement. In any event, the amount of the letter of credit exceeds the first payment that Plaintiff claims is due.

RICHARD RODRIGUEZ
-----By Counsel-----

/s Sean P. McGinley, Esq.
Sean P. McGinley, Esq. (WV Bar No. 5836)
DITRAPANO BARRETT & DIPIERO PLLC
604 Virginia Street East
Charleston, WV 25301
Phone: 304-342-0133
Fax: 304-342-4605

Marvin A. Robon, Esq. (OH/0000644)
R. Ethan Davis, Esq. (OH/0073861)
BARKAN & ROBON LTD.
1701 Woodlands Drive, Suite 100
Maumee, OH 43537
Phone: (419) 897-6500
Fax: (419) 897-6200
Co-counsel for Defendant

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RICHARD RODRIGUEZ,

Defendant.

CERTIFICATE OF SERVICE

I, Sean P. McGinley, hereby certify that the foregoing was served to the following
through the Court's ECF system on this 29th day of January 2008:

Thomas V. Flaherty, Esq.
Jeffrey M. Wakefield, Esq.
Jaclyn A. Bryk, Esq.
FLAHERTY SENSABAUGH & BONASSO, PLLC
PO Box 3843
Charleston, WV 25338-3843

Robert P. Fitzsimmons, Esq.
Robert J. Fitzsimmons, Esq.
FITZSIMMONS LAW OFFICES
1609 Warwood Avenue
Wheeling, WV 26003

/s Sean P. McGinley, Esq.
Sean P. McGinley, Esq. (WV Bar No. 5836)



LAWRENCE A. GRACE
FIRST VICE PRESIDENT & COMMERCIAL BANKING MANAGER

IRREVOCABLE LETTER OF CREDIT

To:	West Virginia University Athletic Department C/O Flaherty, Sensabaugh & Bonasso 965 Hartman Run Rd. Morgantown, WV 26505	Issuing Date:	January 28, 2008
		Letter of Credit No.:	350175
		Amount:	\$1,500,000
		Date of Expiration:	April 27, 2008

This letter is issued with reference to Civil Action 1-08-CV-0041 in the United States District Court for the Northern District of West Virginia (the "Court") between West Virginia University ("WVU"), as plaintiff, and Richard Rodriguez, as defendant.

Bank of Ann Arbor (the "Bank") hereby unconditionally and irrevocably guarantees and binds itself, its successors and assigns to pay to WVU, immediately and without recourse, the sum of One Million Five Hundred Thousand U.S. Dollars & 00/100 (\$1,500,000.00) upon receipt by Bank of Ann Arbor on or before April 27, 2008 (the "Expiration Date") of the following:

- The original copy of this Letter of Credit; and
- A certified copy of a court order ("the Order") issued by the Court through presiding Judge John Bailey or his replacement, signed by a purported authorized official of the Court (1) stating that, in Civil Action 1-08-CV-00041, the Court has determined that Richard Rodriguez is obligated to the West Virginia University and (2) directing the Bank to immediately remit to WVU the amount stipulated in that Order.

The Order must indicate the number and date of this Letter of Credit.

This Letter of Credit and the Order must be presented at the Bank's main office located at 125 S. Fifth Ave., P.O. Box 8009, Ann Arbor, MI 48107.

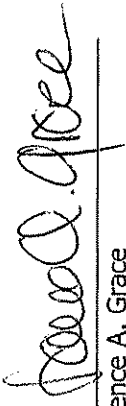
If the requisite Order and original Letter of Credit is presented at the Bank's main office before Expiration Date of this Letter of Credit, the Bank will honor the draft in the amount specified in that Order, subject to the limitation that the amount payable by the Bank shall not exceed \$1,500,000. If presentation is made before 10:00 A.M., then payment will be effected before the close of business on the day of presentation. If presentation is made after 10:00 A.M., then payment will be effected before the close of business or the following business day.

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If a demand for payment made hereunder does not in any instance conform to the terms and conditions of this Letter of Credit, the Bank shall give you prompt notice stating the specific reasons therefore and that we are holding any documents at your disposal. Upon being notified that the proposed presentation was not effected in accordance with this Letter of Credit, the Bank may attempt to correct any such non-confirming demand for payment.

It is fully understood that this Letter of Credit is effective as of January 28, 2008 and expires on April 27, 2008

Bank of Ann Arbor

A handwritten signature in dark ink, appearing to read "Lawrence A. Grace", is written over a horizontal line.

By: _____
Lawrence A. Grace
First Vice President