



REMARKS OF GREGORY W. POWELL  
**The Harold Alfond College Challenge**  
**Federal Judicial Conference**

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Good evening and thank you Judge Singal, and Judge Lynch for inviting me to be with you this evening. You may not realize how special it is for me personally to speak in front of so many distinguished federal judges. In 15 years of law practice, I filed countless requests for oral argument and they were all denied.

As Martha mentioned in her introduction, I run a company called Dexter Enterprises and also serve as Chairman of the Harold Alfond Foundation, Maine's oldest and largest charitable foundation.

Mr. Alfond passed away on November 16<sup>th</sup> of last year at the age of 93. I had the privilege of knowing Harold Alfond since childhood and working with him for over a decade.

During the years I worked with him, we developed an approach for philanthropy which is the backbone of the college challenge initiative.

Not unlike others, Mr. Alfond's philanthropy was personal and focused on the needs of the communities in which he and his family worked and resided.

But more distinctively, the execution of Mr. Alfond's philanthropy has been shaped and guided by his understanding of basic human nature and business principles. Making charitable grants was like making an investment. Harold always wanted a great return and expected to get it. And so, to get a great return in philanthropy as in business, we have looked for at least five elements:

First, we look for widespread demand and need for the project to be funded, or the "product" as Harold called it.

Second, Mr. Alfond was an entrepreneur and recognized that the highest returns would come from ideas that were unique and involved some risk taking. So we have tried to fund new approaches to problems -- to fund projects with a creative, entrepreneurial character.

Third, we look for partners who have talent and experience to contribute and who are not only talented and experienced, but are personally vested in the project and will contribute their own money as well as time.

Just as the best partners in an investment are those who put their own money into a deal alongside yours, we look for charitable projects that require skin in the game by committed partners, if not the beneficiaries themselves.

In that regard, we often reinforce the workings of this “partnership” element by challenging a recipient organization such that we contribute one dollar for every dollar the charity raises. In this way, we can ensure that our partners have skin in the game. This, in turn, grows the donor base of the charitable organization and encourages broader community support.

Fourth and related to the third element, we seek to achieve efficiencies in carrying out a project by promoting collaboration among our partners who are often organizations with similar or overlapping missions.

In a state like Maine with limited financial resources and especially NOW with the enormous financial challenges we are facing, collaborations and partnerships are essential to efficient, cost effective outcomes. We have found that by bringing organizations together we can not only achieve better results than any one organization could achieve on its own, but we can elevate the standing and performance of each participating organization in the process.

Finally, as in any business or investment, there should be an objective means of measuring and evaluating the success or failure of any charitable project.

With these philanthropy principles to guide us, and as Mr. Alfond faced the final weeks of his life, we began to think about how his charitable foundation could enhance aspirations and access to higher education for Maine children. Mr. Alfond liked to say that “our children are the future” and he sincerely believed that higher education was both a right and responsibility of citizenship in the 21<sup>st</sup> century. And so, in the last summer of his life, as he looked over Great Pond of the Maine Belgrade Lakes and watched with love and pride his own great-grandchildren at play and thought of their futures, he asked himself how he could help all the children of Maine better prepare for higher education.

### THE PROGRAM

The answer was the Harold Alfond College Challenge. Under the College Challenge, every child born in Maine will be offered a \$500 college savings fund at birth.

The pilot or model for this initiative has been underway in Central Maine at two hospitals for 9 1/2 months and we expect the program to roll out statewide this coming January. If we are successful in enrolling all families with newborns, the program will cost somewhere between \$7 to \$9 million per year based on an annual birth rate of 14,000 to 16,000. Despite the recent downturn in the financial markets, we expect the Foundation to have ample assets to fund the program. As far as our concern, the bigger the check we write, the better. In a time when many families are worried about jobs, food on the table and the price of gasoline, we are especially committed to funding a college account for each Maine newborn.

There are three basic parts to the college challenge. Each part of the program is as simple as its purpose is evident: First, to start families saving for college early -- at the birth of every child; second, to encourage all families to contribute and grow college savings as their children grow and as their finances permit; and third, to help every family prepare every child for higher education by using the tax advantaged 529 plan savings system as a tool to motivate and inform families.

1) Under our initiative, getting started early in life with saving is fundamental. Mr. Alford liked to say, if you keep chopping wood, pretty soon you'll have a pile. Well as we all know, it takes one hellava large pile of wood to fund a college education today. And for those of you like me who are about to start writing college tuition checks, the years you should have been chopping wood for college can go by pretty fast. So, the college challenge program offers the family of every newborn a \$500 college account for their newborn if they open up their own 529 College Savings Plan before their child's first birthday. And because starting early is so important to compound earnings, we have engaged all of Maine's hospitals as our partners to introduce the program to parents at birth of their children – a time of highest hope and aspiration for parents thinking of their children's future.

2) Second, the program seeks to promote disciplined, regular savings over time by parents, extended family and employers. To accommodate and encourage ongoing college account contributions, our challenge partners with Maine's 529 College Savings Plan administrator, the Finance Authority of Maine, or FAME. Under the 529 program in Maine, parents and employers will be encouraged to contribute additional dollars over 18 years, growing the account as the child grows. And because the child's account is a 529 account, under federal and state tax law, investment earnings will be tax-exempt as long as the contributions are ultimately used for education.

3) Third, and most importantly, there is the motivational and educational component of the program. \$500 is really a drop in the bucket toward funding higher education, and this is true even with a reasonable rate of return over 18 years when you account for inflation.

But at its heart, our \$500 is really a draw or a hook for our plan's most important element---using the 529 plan account system as an informational platform to reach parents, to motivate them, to teach them to save on a disciplined basis, and to help provide them with the information they need to prepare their children for higher education both academically and financially over a prolonged timeframe.

At a minimum, our plan will attempt to do this by providing families with specially-crafted leaflets and messaging, age based in orientation, that will accompany 529 account statements each quarter for 18 years.

So, as I say, the plan's three parts are simple and the objectives clear. Start saving at the birth of each child; contribute and grow savings as each child grows; and help prepare every family and child for higher education by using the 529 savings system to motivate and inform.

#### PROGRAM MEETS PHILANTHROPIC PRINCIPLES

Recognizing that we have much work to do and many obstacles to success, let me spend a few minutes describing how this initiative meets the five basic elements of our philanthropic approach. Again, the program should:

- meet a demonstrable need;
- it should be entrepreneurial;
- it should engage partners who have skin in the game and experience and talent to promote the program;
- it should facilitate superior results through collaboration efficiencies among the Partners; and
- it should have measurable performance outcomes.

### NEED

With respect to the need for college savings---- the program to be funded or “product”----- there is both empirical evidence and common sense to support the need for providing scholarships and starting college savings early in every child’s life.

According to the United States Department of Education, only 77% of our young people here in New England and in Maine graduate from high school. From there, the statistics get worse.

Only 38% of Maine kids enter college after high school. Only 20% of Maine young people graduate from college within six years of starting; And in the last 2 years, these numbers are trending downward.

College cost, savings, and income data is equally disturbing. Maine per capita income is the lowest of any state in the Northeast.

In 2006, Maine students from families with incomes in the lowest 40% of the population would have to pay 46% of their annual income to cover average net college costs at community colleges and 50% at public four year colleges. Average debt for Maine college students is the 7<sup>th</sup> highest in the nation. Finally, what we know about the number of college 529 savings accounts in Maine is not promising. There have been, on average, approximately 14,000 births in Maine annually. Maine’s 529 Plan has been up and running now for 13 years. And yet, after 13 years and 14,000 births in each of those years, the total number of Maine 529 accounts is only 8,500. As a percentage of annual births, that’s 4%.

Years of research show a direct correlation between education attainment and per capita income – cities and towns, counties and states with the highest education attainment level have the highest incomes.

So, when you consider that college graduates earn on average 70% more than those without college degrees and that, in a global economy, building a skilled workforce to compete is more important than ever, these statistics suggest a very serious need to make higher education more accessible to more of Maine’s young people.

## ENTREPRENEURIAL

In the face of such a demonstrable need and mindful of our second philanthropy principle – to be entrepreneurial, our program confronts the challenge of access to higher education in Maine at the beginning of a child’s pre-college years instead of at the end. In that sense, and perhaps others, it is a new approach; it is entrepreneurial with not insubstantial risk. And so far as we know, there is no other program like this anywhere in the country.

Traditional scholarships, financial aid, and loans are important tools in improving access to higher education and these tools help many students. But these tools are effectively serving only 20% of Maine’s young people, winners in every sense of the word, but a minority nonetheless.

So we are theorizing that for the remaining 80% of young people -- sadly, the great majority -- by the time he or she starts thinking about higher education, it is too late, too complicated, too expensive and too daunting a task.

Accordingly, in the Alford College Challenge, we want to make more winners by beginning the process of committing more families to higher education at the birth of every child.

Think about it. Tiger Woods is not a great golfer because his parents decided, at Tiger’s 17<sup>th</sup> birthday, that they would start saving for golf lessons. So why should saving for higher education begin at age 17 for Maine kids? Entrepreneurial or not, the Alford initiative answers this question with the unsurprising notion that earlier is better than later.

Our third element of philanthropy is to engage talented, experienced partners with skin in the game.

There are multiple dimensions here. First and foremost, the program invites the beneficiaries -- namely parents and families -- to be our partners and invest in their child’s education. While we could easily have simply awarded each child born in the state of Maine a \$500 college savings account and be done with it, we wanted to encourage parents to start saving for their child’s future.

Accordingly, this program requires the parent to open a 529 plan account -- it need not be funded, just opened -- to accept family and employer contributions in order to receive our \$500 college fund.

In this way, the 529 account is opened and even if unfunded, it serves as a constant reminder to parents to contribute to their own child’s education if and when they are ready to do so.

In addition to parents and families as partners, the program has tapped Maine’s 529 plan administrator – FAME -- to lead the marketing, outreach and investment administration effort. With 13 years of experience running the state’s 529 program, FAME was and is an obvious and perfect partner for our program. As mentioned earlier, all Maine hospitals have agreed to participate. And we have multiple other partners including the Mitchell Institute, the Maine Compact for Higher Education, the Maine Community College System, and the University of Maine System. All institutions vested in higher education with much to contribute.

In addition, although the program is only in the pilot phase, Maine businesses have already begun to consider how they can join the team and contribute. In the case of one of Maine’s largest employers --

UNUM – it has decided to match our scholarship with a payroll contribution to 529 accounts opened for newborns of each UNUM employee – nationwide. “As Maine goes, so goes the nation”.

The fourth element of Mr. Alfond’s philosophy is to promote collaboration efficiencies by bringing together multiple organizations with similar or overlying missions.

To facilitate and coordinate that collaboration, we have established a new foundation. The Board of this foundation includes representatives from our educational institution partners I mentioned earlier as well as the Governor, the Maine Hospital Association, and other community leaders.

Finally, with respect to evaluating outcomes, there are several ways in which we hope to evaluate the success or failure of the program long before the first account holder reaches college age. A basic objective of the program is to enroll families in the 529 system so we can inform and motivate them and encourage disciplined long term savings for higher education. State vital statistics are readily available. From those, we know how many babies are born in the state of Maine each year. We can measure that number against the number of 529 accounts that are established each year. This will be one key benchmark for measuring outcomes.

In addition, the 529 plans to be opened by parents who receive our scholarship funds are monitored by the state’s 529 plan administrator. Under our agreement with FAME, it will share blinded data on 529 plan savings.

Thus, over an extended time frame, we will be able to tell whether contributions are made to plans receiving our scholarship, how often contributions are made, in what amounts, and whether plans of siblings are being opened, even though they may be born before the statewide rollout of our plan. In a word, the frequency and accumulation of college savings can be monitored and measured.

The most basic objective of the program, of course, is to have the Alfond fund and other contributions provide meaningful financial support toward higher education.

While we cannot be sure every child enrolled in the scholarship program goes on to higher education, the legal construct of the Alfond \$500 account within the 529 system administered by FAME assures that the scholarship dollars we contribute today will ultimately go to higher education. By law, parental contributions to a 529 plan can be withdrawn by the account participant for any reason or purpose.

But under the College challenge legal structure, the Alfond funds can only be used to pay for Title IV qualified educational programs, whether for a welding course or toward an Ivy League education. And if the Alfond funds are not used for higher education by the participant’s 28<sup>th</sup> birthday, then the funds will, again by plan design, be forfeited back in to the pool to increase the holdings of all remaining participants.

Finally, we can measure the performance of the underlying 529 plan investments. In a way, this is an added bonus to the program. The scholarship foundation we have set up has an investment committee whose responsibility it is to monitor performance and adjust, if needed, the 529 investment options offered to parents participating in the program.

We expect this committee and the investment fund managers to do a good job for the parents and that this supervision and reporting on investment returns will allow us another way of measuring outcomes.

## PROBLEMS AND CHALLENGES

So that's the Harold Alford College Challenge and how it meets the philanthropic principles of Mr. Alford's foundation.

About this time, for those of you still awake, you are probably thinking – it sounds too good to be true.

Well, how right you are. The College Challenge has plenty of....well challenges and I'd like to spend a few moments candidly discussing a couple of them.

### 1. GETTING PEOPLE TO SIGN UP

For starters, you would think getting people to accept \$500 for their children's education would be easy. But it isn't. In the pilot phase of the program, acceptance of the scholarship account by families is at only 30%. Now that's an improvement over the 4% historical track record, but a long way from where we want to be. In evaluating the 30% take rate experienced in our pilot, we have found that there are two primary barriers to getting families to sign up: their suspicion that there is a catch to our offer, and the inscrutable complexities of the 529 application form and investment disclosure materials.

Now, given how new the initiative is and that full-scale marketing has not occurred, it is not surprising that families are suspect. But the complexity of the application and fund materials is a different story.

The application used by FAME and Merrill Lynch was 7 pages long. And then there is the 529 prospectus --a riveting 50,000 words, 75 pages of enlightenment for new moms and dads -- designed more to protect the state agency and the financial institution investing the funds than to inform families.

When you think about it, the theory behind the 529 law was to provide a system of tax-free higher education savings for parents – all parents – not just those who are financially sophisticated. It is also a fact that only state-deputized agencies under the federal law may administer 529 Plans. So you would think that a fiduciary role could be assumed by the administrator to give families a more understandable, un-intimidating investment program.

Unfortunately that has not been the case. People may have different views on the importance of risk disclosure documents and securities regulations that are designed to protect the public.

Our view is that 529 forms and disclosure statements are largely barriers to understanding and serve to dissuade, not persuade, ordinary families from investing. So we are working hard with FAME to simplify the application form and account paperwork so that parents will more readily open 529 accounts and understand the basics of long-term investment savings without feeling overwhelmed by complexity.

### 2. MARKET VOLATILITY

Another challenge for our program has been accentuated by the current unprecedented financial crisis. This crisis has undoubtedly shaken the confidence of many families in the wisdom of saving for their children's education, not to speak of their own retirements. Unfortunately, this and other less drastic

market down turns provide an excuse for not investing at all or suspending investment activity. Such behavior in down markets only worsens the ultimate deficit in savings for American families. In the New York Times last week, Warren Buffett described the folly of failing to invest during market down turns. Putting his money where his mouth is, Buffet is now busy BUYING stocks following his long time principle to “Be fearful when others are greedy and be greedy when others are fearful.”

“I can’t predict the short-term movements of the stock market,” he wrote, but “over the long term, the stock market news will be good” “as most major companies will be setting new profit records 5, 10 and 20 years from now.” “So” he joked, “if you wait for the robins, spring will be over.”

To Buffett’s point, therefore, we are especially concerned about the failure of families to invest now in stressful times; we don’t want them to miss the spring. But looked at more closely, we see the upcoming statewide launch of the College Challenge program in a depressed market as a great opportunity to get families started with an investment program when they might otherwise delay and, best of all, to get them invested at attractive low-market valuations.

There is another deeper dimension to the financial crisis we are experiencing that relates to the most basic objectives of our program. At its heart, the financial debacle we are witnessing represents a massive deleveraging of our economy.

While there will be books and articles written about this crisis far into the future, it is clear that a major precipitating cause of the crisis is excessive borrowing by individuals and by financial institutions. Like gaining weight, debt is easy to put on, but painful to get rid of. In the case of individuals, prior to the eruption of our current crisis, 60% of consumer credit card debt is not paid off in full monthly, and 1 in 6 credit card holders pay only the minimum monthly balance due, leaving principal generating interest at an average rate of 14.7%.

Meanwhile, moving to our financial institutions, this consumer credit card debt, along with residential mortgages including subprime mortgages, has been securitized and sold to investment banks who, in turn, have used such securities as collateral for their own portfolios against which they borrow on a debt to equity ratio of 30 to 1 or higher.

At the risk of oversimplification, excess debt is symptomatic of a culture plagued by the need for instant gratification and by a lack of vision for what can be achieved through sustained discipline and hard work. Why save for tomorrow, when you can have it all today and pay tomorrow. Unfortunately, today is now tomorrow.

As Tom Friedman said recently, America needs to do some nation building; it needs to do some nation building here in America. While disciplined college savings is only a part of our nation building challenge, it is, we think, an important part.

We hope the college challenge initiative will help change the culture of instant gratification into one where long-term disciplined saving for a brighter future is a badge of honor and respect; we hope this program begins to strengthen the ethic that sending your children to college is a more important life accomplishment and measurement of personal worth than the car one drives or the size of the home one has borrowed money to purchase.

### 3. ADVERTISEMENT

Enough preaching. It's time now for an advertisement. If you are moved at all by the objectives of the Alford College Challenge, you can help us in this effort by encouraging your friends, employees, associates and partners to open 529 accounts for their children. For those of you who are employers, you can facilitate employee contributions to 529 accounts by asking your payroll company to allow your employees to make regular deductions from their pay into 529 college saving accounts for their children.

And last, if you have some extra dollars at year end, you or your firm can make a contribution to the 529 accounts of your own children and those of your employees. With the example you set as respected community leaders and professionals, you can help change the culture from one driven by instant gratification to one of nation building through investment in education.

### CONCLUSION

There comes a time in every speaker's life when he looks out over his audience and sees every face filled with appreciation, expectation and unalloyed pleasure. It's shortly after the words "so, in conclusion."

So, in conclusion, now all of you know why my requests for oral argument were denied. Let me close with this final thought.

As his life was ending, Harold Alford wanted every Maine child to benefit from this legacy gift. At 93, he knew from his own struggles in life without a college education that higher education is now an indispensable foundation to individual success and our nation's strength in the 21<sup>st</sup> century. But on a more human level, Harold wanted every child of every background to have a chance in life to be better.

He could imagine as his life was ending, as we do now, the mail being delivered to a small trailer in a remote part of Maine and an envelope from the College Challenge being opened by a young mother — the cries of her new child in the air.

We want this envelope and those that follow to be seeds for growth of hope and opportunity for this Maine mother and her child and thousands of others; this Maine mother and all families should know that someone cares for their children, that their children are worth saving for, and that life can be better for the next generation. Harold Alford knew he would not live to see his plan bear fruit. In that sense, the selfless generosity of this legacy initiative is most profound. But there is another side to the story. Harold delighted in saying "I don't plan to retire until ten years after I'm dead." And so, in that sense, 18 years from now, when that child from the remote Maine trailer heads off to college because of the college challenge, Harold Alford will still be working.

Thank you for sharing your evening with me.