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PAUL INNES, J.S.C.

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MERCER COUNTY
DOCKET NO.: MER-C-_____

JOHN J. HOFFMAN, Acting Attorney General of the
State of New Jersey, and STEVE C. LEE, Acting
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

EDUCATION MANAGEMENT CORPORATION,
ARGOSY UNIVERSITY OF CALIFORNIA LLC,
SOUTH UNIVERSITY, LLC, BROWN MACKIE
EDUCATION II LLC, THE ART INSTITUTES
INTERNATIONAL II LLC, THE ART INSTITUTE
OF PITTSBURGH LLC, and THE ART INSTITUTE
OF NEW JERSEY LLC,

Defendants.

Civil Action

COMPLAINT

Plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey ("Attorney General"), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs ("Director"), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey (collectively, "Plaintiffs"), bring this action against Education Management Corporation, Argosy

University of California LLC, South University, LLC, Brown Mackie Education II LLC, The Art Institutes International II LLC, The Art Institute of Pittsburgh LLC, and The Art Institute of New Jersey LLC, including, except as otherwise provided herein, all of their respective subsidiaries, affiliates, successors, and assigns (collectively, “EDMC” or “Defendants,”) for violating the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), and in support of its claims, state as follows:

PARTIES

1. The Attorney General is charged with the responsibility of enforcing the CFA. The Director is charged with the responsibility of administering the CFA on behalf of the Attorney General. By this action, the Attorney General and the Director seek injunctive and other relief for violations of the CFA, pursuant to N.J.S.A. 56:8-8, 8-11, 8-13 and 8-19, against Defendants for engaging in unconscionable commercial practices and misrepresentation in connection with the advertising, offering for sale and/or sale of its online and on-ground educational programs.

2. Defendant EDMC is a Pennsylvania corporation with its corporate headquarters at 210 Sixth Avenue, 33rd Floor, Pittsburgh, Pennsylvania, and is one of the largest for-profit higher education companies in the United States. Argosy University of California LLC, a California limited liability company, South University, LLC, a Georgia limited liability company, Brown Mackie Education II LLC, a Delaware limited liability company, The Art Institutes International II LLC, a Pennsylvania limited liability company, The Art Institute of Pittsburgh LLC, a Pennsylvania limited liability company, and The Art Institute of New Jersey LLC, a New Jersey limited liability company, are wholly-owned, indirect subsidiaries of Education Management Corporation.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to the CFA and over Defendants pursuant to the CFA. Venue is proper under R. 4:3-2 because Mercer County is a county in which Defendants have advertised and conducted business.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

4. EDMC is a for-profit educational institution that operates online and on-ground schools including Argosy University, Brown Mackie College, The Art Institutes, and South University.

5. As of October 2014, EDMC had approximately 112,430 enrolled students online and at its 110 locations in 32 U.S. States and Canada.

6. EDMC has engaged in deceptive and misleading student solicitations touting educational benefits that were available to too few EDMC students.

7. EDMC has engaged in unconscionable and deceptive acts and practices against its students and prospective students, including but not limited to, misrepresenting job placement rates and graduation rates for students.

8. EDMC was, at all times relative hereto, engaged in the advertising, offering for sale and sale of its educational programs and services in the State of New Jersey.

FACTUAL ALLEGATIONS

EDMC Used High-Pressure, Deceptive and Unconscionable Recruiting Tactics:

9. Defendants targeted prospective students for high-pressure recruitment, including many students Defendants knew or reasonably should have known, would not likely benefit from an education at its educational institutions.

10. Defendants high-pressured prospective students to enroll upon their first contact with Defendants' recruiters.

11. Defendants made emotional pitches to recruits to pressure them to enroll.

12. Defendants misled prospective students about program costs, emphasizing cost per credit hour and other generalities rather than disclosing total costs to complete a program.

13. Defendants falsely claimed students would earn substantially higher incomes through obtaining Defendants' degrees than Defendants knew its graduates actually earned.

EDMC Made False Claims Regarding Program Accreditation:

14. In connection with the solicitation of prospective students, Defendants inaccurately claimed that certain of their programs were accredited by a programmatic accreditor necessary for a student to obtain licensure in their profession.

15. In connection with the solicitation of prospective students, Defendants inaccurately claimed that they were seeking to have certain programs accredited.

EDMC Misrepresented Job Placement Data to Students and Prospective Students:

16. Defendants engaged in deceptive and unconscionable practices, and misrepresentations in calculating disclosed job placement rates, including but not limited to:

a. misrepresenting EDMC graduates who worked only temporarily as having been "employed," based, for example, on a single day of work;

b. misrepresenting EDMC graduates as having been "placed in field" although the employment in question was at a level below that of the graduates' fields of study, including but not limited to a graduate with an AA in Business Management based on employment as a Customer Service Representative at a retail store and a graduate with an Accounting diploma based on employment as a cashier at a fast food restaurant.

EDMC Accepted Leads Obtained Through Deceptive Means:

17. Defendants accepted and paid for prospective student referrals from third party lead generators who operated online and who Defendants knew or reasonably should have known obtained leads through deceptive practices and then recruited students based on those leads.

EDMC Maintained an Unconscionable Refund Policy:

18. Defendants' tuition refund policy unfairly charged students for classes that commenced after they withdrew from Defendants' schools.

19. The deceptive and unconscionable practices and misrepresentations cited in paragraphs 9-18 above led to certain New Jersey students enrolling in and becoming indebted for Defendants' educational courses.

COUNT I
VIOLATION OF THE CFA (DECEPTION)

20. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 19 above as if more fully set forth herein.

21. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. . . .

22. The CFA defines "merchandise" as including "any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale." N.J.S.A. 56:8-1(c).

23. The educational services advertised, marketed, offered for sale and sold by Defendant comprise merchandise within the meaning of the CFA.

24. In the operation of EDMC, Defendants have engaged in the use of deception, in connection with their solicitations for enrollment in education courses as set forth in paragraphs 9 through 19.

COUNT II

VIOLATIONS OF THE CFA (MISREPRESENTATIONS)

25. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 24 above as if more fully set forth herein.

26. Defendants have engaged in misrepresentations in connection with their solicitations for enrollment in educational courses, as set forth in paragraphs 12 through 16.

COUNT III

VIOLATIONS OF THE CFA (UNCONSCIONABLE COMMERCIAL PRACTICES)

27. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 26 above as if more fully set forth herein.

28. Defendants have engaged in unconscionable commercial practices in connection with their solicitations for enrollment in educational courses as set forth in paragraphs 9 through 19.


PRAYER FOR RELIEF

WHEREFORE, based on the forgoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and practices of Defendants constitute unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq.;

- (b) Permanently enjoining and restraining Defendants, and (as applicable) each of Defendants' directors, officers, principals, partners, employees, agents, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations, or other entities, acting in concert or participating with the Defendants who have actual or constructive notice of the Court's injunction, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- (c) Directing the assessment of restitution amounts necessary to restore to all affected person, whether or not named in this Complaint, all money acquired by means of any act or practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendants, jointly and severally, for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Defendants for the use of the State of New Jersey as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the Court deems just and equitable.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

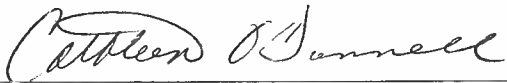
By: 
Cathleen O'Donnell
Deputy Attorney General

Dated: November 13, 2015
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the CFA, is not the subject of any other action pending in any other court of this State. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

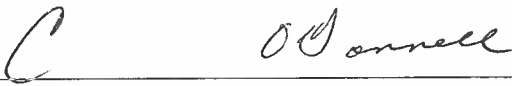
By: 
Cathleen O'Donnell
Deputy Attorney General

Dated: November 13, 2015
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs


By: 
Deputy Attorney General

Dated: November 13, 2015
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorneys General Cathleen O'Donnell is hereby designated as trial counsel for the Plaintiffs in this action.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Cathleen O'Donnell
Deputy Attorney General

Dated: November 13, 2015
Newark, New Jersey