

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL,

Plaintiff,

v.

CIVIL ACTION NO. _____

EDUCATION MANAGEMENT CORPORATION,
a Pennsylvania corporation, 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, SOUTH UNIVERSITY OF
VIRGINIA, INC., a Virginia corporation, THE ART
INSTITUTE OF VIRGINIA BEACH LLC, a Virginia
limited liability company, and THE ART INSTITUTE
OF WASHINGTON – DULLES LLC, a Virginia limited
liability company,

Defendants.

COMPLAINT

The Plaintiff, Commonwealth of Virginia (the “Commonwealth”), by, through, and at the relation of the Attorney General, Mark R. Herring, brings this action against the Defendants, Education Management Corporation, Argosy University of California LLC, South University, LLC, Brown Mackie Education II LLC, The Art Institutes International II LLC, South University of Virginia, Inc., The Art Institute of Virginia Beach LLC, and The Art Institute of Washington –

Dulles LLC, including, except as otherwise provided herein, all of their respective subsidiaries, affiliates, successors, and assigns (collectively, “EDMC” or “Defendants,” and, together with the Commonwealth, the “Parties”), pursuant to the Virginia Consumer Protection Act (“VCPA”), Virginia Code §§ 59.1-196 through 59.1-207. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Circuit Court of the County of Henrico has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

2. Venue is permissible in this Court pursuant to Virginia Code § 8.01-262(2), (3), and (4) because Defendants have appointed a registered agent to receive process in the County of Henrico, Defendants regularly conduct substantial business activity within the County of Henrico, and the cause of action arose, in part, in the County of Henrico, including at South University, Richmond campus, which is located at 2151 Old Brick Rd, Glen Allen, VA 23060 in the County of Henrico.

PARTIES

3. The Plaintiff is the Commonwealth of Virginia (the “Commonwealth”), by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.

4. Defendant Education Management Corporation is a Pennsylvania corporation with its principal place of business located at 210 Sixth Avenue, 33rd Floor, Pittsburgh, Pennsylvania 15222.

5. Defendants 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, South University of Virginia, Inc., a Virginia corporation, The Art Institute of Virginia Beach LLC, a Virginia limited liability company, and The Art Institute of Washington – Dulles LLC, a Virginia limited liability company, are wholly-owned, indirect subsidiaries of Education Management Corporation.

CAUSES OF ACTION

6. The Plaintiff realleges and incorporates herein by reference the matters set forth in Paragraphs 1 through 5 above.

7. Defendants are or were during all relevant times a “supplier” of “goods” and/or “services” in connection with “consumer transactions” as those terms are defined in § 59.1-198 of the VCPA.

8. 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.

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

10. Defendants have engaged in deceptive and misleading student solicitations touting educational benefits that were available to few EDMC students.

11. 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.

12. Defendants pressured prospective students to enroll upon their first contact with Defendants’ recruiters.

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

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

15. 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.

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

17. Defendants have engaged in deceptive acts and practices directed at its students and prospective students, including but not limited to misrepresenting job placement rates and graduation rates for students.

18. Defendants engaged in deceptive acts and practices 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 Associate of Arts 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.

19. Section 59.1-200(A)(2) of the VCPA prohibits "misrepresenting the source, sponsorship, approval, or certification of goods or services."

20. Section 59.1-200(A)(5) of the VCPA prohibits “misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits.”

21. Section 59.1-200(A)(14) of the VCPA prohibits using any “deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction.”

22. The aforesaid acts and practices of Defendants constitute violations of §§ 59.1-200(A)(2), (5), and (14).

REQUEST FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, respectfully requests this Court:

A. Pursuant to Virginia Code § 59.1-203(A), permanently enjoin Defendants, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in deceptive or misleading conduct which violates §§ 59.1-200(A)(2), (5), or (14) of the VCPA;

B. Pursuant to Virginia Code § 59.1-205, order Defendants to restore to any consumers the money acquired from them by Defendants in connection with its violations of the VCPA;

C. Pursuant to Virginia Code § 59.1-206(C), order Defendants to pay the costs incurred by the Commonwealth in investigating and preparing the case not to exceed \$1,000 per violation and reasonable attorneys’ fees; and

D. Grant such other and further relief as the Court deems proper.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of November, 2015, a true copy of the foregoing Complaint was mailed, postage prepaid, to: Meyer G. Koplow, Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, New York 10019; and Edward Longosz, Eckert, Seamans, Cherin & Mellott, LLC, 919 East Main Street, Suite 1300, Richmond, Virginia 23219, counsel for Education Management Corporation.



Angela M. King