

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

15-2044 C

COMMONWEALTH OF MASSACHUSETTS,)

Plaintiff,)

v.)

LINCOLN TECHNICAL INSTITUTE, INC. and)
LINCOLN EDUCATIONAL SERVICES)
CORPORATION)

Defendants.)

COMPLAINT



INTRODUCTION

1. The Commonwealth of Massachusetts, by and through its Attorney General, Maura Healey, brings this enforcement action in the public interest pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4.

JURISDICTION AND VENUE

2. The Attorney General is authorized to bring this action pursuant to G.L. c. 93A, § 4. The Attorney General has an interest in preventing unfair or deceptive acts or practices in order to promote the health and economic well-being of those who live and transact business in Massachusetts.

3. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4.

4. This Court has personal jurisdiction over Defendants Lincoln Educational

Services Corporation and Lincoln Technical Institute, Inc. (collectively, “Defendants” or “Lincoln”), pursuant to G.L. c. 223A, § 3(a) and (b). Pursuant to G.L. c. 223, § 5 and G.L. c. 93A, § 4, venue is proper in this Court. Plaintiff has met its notification requirements under G.L. c. 93A, § 4, as Defendants, in discussions regarding Plaintiff’s allegations pre-suit, waived their right to receive statutory written notification.

PARTIES

5. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, who brings this action in the public interest to remedy Defendants’ unlawful conduct and to enjoin future unlawful acts.

6. Defendant Lincoln Educational Services Corporation (“LESC”) is a New Jersey corporation with its principal place of business located at 200 Executive Drive, Suite 340, West Orange, New Jersey. Defendant Lincoln Technical Institute, Inc. (“LTI”) is a New Jersey corporation, and a wholly-owned subsidiary of LESC. LTI has its principal place of business at the same location as LESC. Since 2010 and earlier, Defendants have offered courses at locations in Massachusetts, including criminal justice classes at campuses in Lowell and Somerville.

STATEMENT OF FACTS

7. Since at least 2010 and continuing through 2013, Defendants have engaged in unfair or deceptive practices in the recruitment and enrollment of students at the Defendants’ schools in Massachusetts.

8. Students have incurred substantial debt to pay for tuition and fees at Lincoln campuses. The vast majority of students who attend Lincoln schools receive a significant portion of their funding in the form of federal grants and loans authorized under Title IV of the Higher Education Act of 1965 (“Title IV”). Under Title IV Programs, the government funds a

certain portion of a students' tuition, with the remainder, referred to as "the gap," financed by students themselves under private party loans, including credit extended by Defendants.

Defendants extend credit to students who are unable to get traditional financing to cover this gap.

9. Certain students who receive financing through Defendants are unable to secure employment sufficient to repay their loans. These students then default on their loans or are delinquent in paying them back. When individuals default or become delinquent on their student loans, their access to credit is severely impaired, and they often become prey to harassing debt collection practices. Their future wages, if any, may be garnished. Their student loan debts are generally not dischargeable in bankruptcy.

A. Representations Concerning Job Placement Rates in Criminal Justice

10. Since at least 2010, a key part of Defendants' recruiting efforts to attract students to their Massachusetts campuses has involved written and oral statements concerning Defendants' career-training preparation for jobs in the students' fields of study, and Defendants' influence and historical success in placing students in these jobs.

11. Between 2010 and the present, Defendants' course catalogue and website described the criminal justice program as preparing students for jobs in that field. The website stated that students would "[b]uild the foundation for a career in law enforcement and private security with Criminal Justice training at Lincoln."

12. Since at least 2010 and continuing through the present, Defendants have reported placement rates to prospective students and the public in person and in written marketing and recruitment materials. Beginning in 2010 or earlier, Defendants published these placement rates on their website.

13. Prior to November of 2013, Defendants' admissions representatives reported

placement rates above 70% in the criminal justice program when in fact the actual placement rates were materially lower. In order to reach these higher rates, Defendants counted among their placements temporary jobs, part-time jobs, jobs the students held prior to starting school with Defendants, and jobs not in the students' field of study, such as general retail positions. In or around November of 2013, Defendants implemented policies and procedures designed to exclude placements in jobs outside of the student's field of study when calculating placement rates.

14. These representations induced students into believing that they would obtain a job in their field of study, when in numerous instances that was not the case.

15. Defendants' representations concerning placement rates had the effect of luring Massachusetts students into enrolling in Defendants' Massachusetts criminal justice programs and incurring substantial debt to pay for tuition and fees.

B. High-Pressure Recruiting Tactics

16. Defendants employed admissions personnel to recruit students. The Admissions Manual in place prior to June of 2011 instructed recruiters to "bring out the pain" in potential students so that they would want to enroll. Defendants' recruiters used scripted questions to "establish unhappiness, create urgency." For web-based leads, Defendants required admissions staff members to call the prospective student within 12 minutes of receipt. Defendants further required recruiters to make at least seven attempts to contact the student within the first three days.

17. Recruiters told at least one prospective criminal justice student that he would be able to transfer credits from that program to other schools in the area, including the University of Massachusetts system. In fact, credits from Lincoln's criminal justice program are transferrable

only to certain other for-profit schools.

18. In addition, Defendants instructed recruiters to discourage prospective students from following other paths to higher education. For instance, recruiters dissuaded students from joining the military by (i) stating recruiters had spent a lot of time researching and visiting military educational programs, (ii) opining that much of that the same type of funding was available to civilians as to military veterans and (iii) implying that graduates of Lincoln could join the military with guaranteed continued training in the chosen career and at a higher rank and salary. Recruiters also steered students from pursuing community college by telling them that community colleges do not typically have placement personnel and that their programs take longer to complete.

19. Defendants' purpose in making such statements was to secure additional students, and the income stream associated with them, without regard for whether these individuals might be better served by furthering their educations elsewhere rather than attending a for-profit school.

CAUSES OF ACTION

Count One (Violations of G.L. c. 93A)

20. The Commonwealth repeats and realleges paragraphs 1 through 19 of the Complaint.

21. Defendants' representations to Massachusetts consumers, prospective students, and others were material and deceived or had the tendency or capacity to deceive or mislead potential and existing customers, in violation of G.L. c. 93A, § 2, inducing consumers to enroll in Defendants' programs in Massachusetts and to provide tuition and fee monies to Defendants.

22. Defendants knew or should have known that their acts or practices were unfair and deceptive acts in violation of G.L. c. 93A, § 2.

23. Defendants acquired tuition and fee monies by reason of their unfair or deceptive acts or practices, causing students to suffer an ascertainable loss by paying out funds and/or incurring student loan debts.

24. Defendants' unfair or deceptive acts and practices resulted in harm to consumers.

Count Two
(Violations of 940 CMR 3.10 and 3.16)

25. The Commonwealth repeats and realleges paragraphs 1 through [] of the Complaint.

26. Defendants have engaged in acts or practices in violation of 940 CMR 3.10 and 3.16.

27. Defendants' representations to consumers, prospective students, and others were material and deceived or had the tendency or capacity to deceive or mislead potential and existing Massachusetts customers, inducing consumers to enroll in Defendants' programs in Massachusetts and to provide tuition and fee monies to Defendants.

28. Defendants knew or should have known that their representations, acts or practices were in violation of 940 CMR 3.10 and 3.16.

29. Defendants acquired tuition and fee monies by reason of their unfair or deceptive acts or practices, causing students to suffer an ascertainable loss.

30. Defendants' unfair or deceptive acts and practices resulted in harm to consumers.

RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court:

A. Issue a permanent injunction restraining Defendants, their agents, employees and all other persons and entities, corporate and otherwise, in active concert or participation with any of them from:

- i. making false and/or misleading representations to the public, to prospective and current students concerning job placement and career services, and, in particular concerning Defendants' influence in obtaining employment in students' field of study, their historical success in finding jobs for students in their field of study, and opportunities available for students in their field of study,
 - ii. making false and/or misleading representations to the public and to prospective and current students concerning graduate opportunities in the military and/or financial aid available to civilians as compared with veterans,
 - iii. making false and/or misleading representations to the public and to prospective and current students concerning the transferability of credits to other educational institutions, and
 - iv. Failing to comply with Massachusetts regulations regarding for-profit and occupational schools, 940 CMR 31.00.
- B. Order such other and further relief as may be allowed under the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4.
- C. Grant such other and further relief as this Court deems just and proper.

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS

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