

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

ITT EDUCATIONAL SERVICES, INC.,

Defendant.

16 0411

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. The Commonwealth seeks restitution, including the return of tuition and fees acquired by Defendant ITT Educational Services, Inc. ("ITT") from students induced by ITT's unfair or deceptive acts or practices to enroll in the Computer Network Systems program at either of the two ITT Technical Institute Massachusetts campuses,¹ and civil penalties of \$5,000 per violation. The complaint also seeks injunctive relief to remedy and prevent additional harm arising from ITT's unfair or deceptive acts or practices, together with the costs of investigating and prosecuting this action, including reasonable attorneys' fees.

¹ References to the Computer Network Systems program and Computer Network Systems students or graduates hereinafter shall be construed as limited to ITT's Massachusetts locations.

2. From 2010 through at least May 2013, ITT deceived and misled consumers and prospective students in order to aggressively enroll students in the Computer Network Systems program.

3. In advertisements, on its website, and in written and oral statements made to recruit and enroll prospective students, ITT misrepresented:

- i. the historical success of Computer Network Systems graduates in finding jobs in or related to their field of study;
- ii. the earnings of Computer Network Systems graduates;
- iii. the nature, character, and quality of the Computer Network Systems program; and
- iv. the nature and availability of financial aid.

4. ITT represented to consumers and prospective students that a very high percentage of Computer Network Systems graduates obtained employment in or related to their field of study when ITT knew or should have known that this was untrue.

5. Students enrolled in the Computer Network Systems program and made tuition and fee payments to ITT based on ITT's false and/or misleading statements.

6. Students who enrolled in the Computer Network Systems program incurred substantial debt in order to make tuition and fee payments to ITT. A large number of these students have not obtained jobs in their field of study, or jobs at all, and are currently or will soon be unable to repay their loans.

7. Federal loans accounted for most of the students' debt, but ITT also extended short-term loans to students. ITT knew or should have known, when it created its loan program, that student borrowers would be unable to repay the loans in accordance with their terms. When

student borrowers were unable to repay ITT, ITT steered these students to expensive, private loans that ITT knew or should have known the students would be unable to afford.

8. When individuals default or become delinquent on their student loan payments, their access to credit is severely impaired, and they often become prey to harassing debt collection practices. Their future wages may be garnished, and their federal student loan debts are not dischargeable in bankruptcy. Taxpayers ultimately cover the costs of defaulted federal student loans, while ITT keeps the students' tuition and fee payments. One graduate of the Computer Network Systems program said, "[T]hey get so much of your money invested they make it impossible to withdraw without a huge financial loss. They treat students as purely a source of income."

PARTIES

9. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General ("AGO"), who brings this action in the public interest to remedy ITT's unlawful conduct and to enjoin future unlawful acts.

10. Defendant ITT Educational Services, Inc. ("ITT") is a corporation engaged in the business of operating post-secondary career schools for profit. Founded in 1946, ITT has been a publicly-traded company since 1994. As of December 31, 2015, ITT operated 138 campuses in the United States, with a total enrollment of approximately 45,000 students. It operates two campuses in Massachusetts through the brand name ITT Technical Institute at 333 Providence Highway in Norwood and 200 Ballardvale Street, #200, in Wilmington. ITT is a Delaware corporation with its principal place of business located at 13000 North Meridian Street, Carmel, Indiana.

JURISDICTION AND VENUE

11. The AGO is authorized to bring this action pursuant to G. L. c. 93A, § 4. The AGO 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.

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

13. This court has personal jurisdiction over ITT 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 Norfolk County.

STATEMENT OF FACTS

I. For-Profit Schools

14. Between June 2010 and July 2012, the Health, Education, Labor and Pensions Committee of the United States Senate investigated the for-profit sector of higher education. The committee's findings rely in part on data from 2010. This data provides context to the Commonwealth's allegations that from 2010 through at least May 2013, ITT engaged in unfair or deceptive acts or practices.

15. For-profit schools, which award various degrees and certificates, are owned and operated by businesses and business persons. STAFF OF S. COMM. ON HEALTH, EDUC., LABOR & PENSIONS, 112TH CONG., FOR PROFIT HIGHER EDUCATION: THE FAILURE TO SAFEGUARD THE FEDERAL INVESTMENT AND ENSURE STUDENT SUCCESS 1 (Comm. Print 2012), *available at* <http://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74931/pdf/CPRT-112SPRT74931.pdf>

(hereinafter “Senate Report”). Like any for-profit business, the principal function of these businesses is to produce returns for owners and shareholders. *Id.*

16. The business model of for-profit schools typically focuses on students with modest financial resources who are eligible for federal funds in the form of grants and loans. For-profit schools also target non-traditional students and the unemployed who are eligible for federal workforce retraining funds.

17. For-profit schools receive most of their revenue from the federal government in the form of federal student grants and loans. During 2009-2010, the fifteen publicly traded for-profit education companies received 86% of their revenue from taxpayers. *Id.*, p. 3. Taxpayer investment in for-profit schools was \$32 billion in 2009-2010, *id.*, more than the budget of the U.S. Department of Energy and 75% of the spending of the Department of Homeland Security in the same year.

18. The for-profit education sector has grown significantly since the early 2000s. Pell Grants to for-profit schools increased nearly 600% from \$1.1 billion in the 2000-2001 school year to \$7.5 billion in the 2009-2010 school year. *Id.*

19. Federal student loans were initially authorized under Title IV of the Higher Education Act of 1965 (“Title IV loans”). Since 2010, all Title IV loans have been provided under the William D. Ford Direct Loan program, initially codified in the Omnibus Reconciliation Act of 1993. About 96% of students in for-profit schools take out federal student loans to pay for their training. *Id.*, p. 9.

20. For-profit schools enroll about 12% of post-secondary students but consume nearly a quarter of all federal educational loans and grants. *Id.*, p. 3.

21. For-profit programs are often expensive. Associate degree programs at for-profit schools average four times the cost of comparable programs at public schools. *Id.*, p. 4. The schools' tuition charges are often based on company profit goals, rather than anticipated academic and instructional expenses. *Id.*

22. In fiscal year 2009, marketing and profit consumed 42.1% of for-profit school revenue (22.7% for marketing and 19.4% for profit). *Id.*, p. 7. By contrast, for-profit schools spend relatively little on education. In fiscal year 2009, only 17.2% of revenue was spent on instruction, less than half the expenditure on marketing and profit. *Id.*

23. Students at for-profit schools typically have poor outcomes. A large number of students leaving for-profit schools are unable to obtain employment. *Id.*, p. 9. A quarter of for-profit students default on their loans within three years of graduation. *Id.* Overall, the 12% of students at for-profit schools nationally are about 47% of all defaults. *Id.*

24. For-profit schools routinely engage in unfair or deceptive marketing practices, and for-profit admissions representatives are trained to use aggressive tactics. *Id.*, p. 204. Admissions representatives often create a false sense of urgency to enroll. Using particularly insidious marketing techniques, for-profit schools such as ITT train and encourage admissions representatives to emotionally exploit prospective students who may already be in dire straits by identifying their pain and vulnerability, and then exploiting those weaknesses to pressure the individuals to enroll. *See id.*, pp. 572-577. For-profit schools' marketing strategies have been effective at increasing enrollments and for-profit school revenues.

II. ITT and the Computer Network Systems Program

25. In Massachusetts, ITT is engaged in the business of marketing, selling, and providing products and services to consumers for a profit. ITT solicits consumers in

Massachusetts through advertisements, its website, direct phone calls, and in-person communications, all aimed at selling its products and services to Massachusetts consumers.

26. ITT has two Massachusetts campuses, one in Norwood and the other in Wilmington (the “campuses”). Both campuses offer a variety of associate degree and bachelor degree programs.

27. Each campus offers a Computer Network Systems program. The Computer Network Systems program is a two-year, associate degree program that ITT advertises as helping students prepare for careers installing and maintaining computer network systems. The core courses of the Computer Network Systems program include classes in various operating systems, computer programming, cabling, network standards and protocols, and networking application services and security.

28. ITT’s tuition prices are among the highest of for-profit schools. *Senate Report*, pp. 566-567. The tuition for ITT’s two-year Computer Network Systems program in 2010 was \$47,328.

29. As a practical matter, access to federal grants and loans, which make tuition more affordable for students, is necessary to enroll students in the Computer Network Systems program, and the vast majority of students take out substantial federal loans.

30. In 2010, ITT reported 60.8% of revenue from Title IV funding. Much of the remainder of ITT’s reported revenue comes from private loan programs created by ITT. *Id.*, p. 561.

31. The total amount of tuition and fees charged by ITT as a result of enrollments in the Computer Network Systems program during 2010 alone was over \$11 million. Of this \$11 million, nearly \$7 million was paid to ITT through Title IV funding.

32. A large number of students who enrolled in the Computer Network Systems program from 2010 through at least May 2013 have been unable to find employment in their field of study. Many remain unemployed or have found jobs requiring no training, often at low wages and/or on a temporary or part-time basis.

III. ITT's Unfair or Deceptive Acts or Practices

33. Since 2010 and continuing through at least May 2013, ITT engaged in unfair or deceptive acts or practices including unfair and harassing sales tactics and false and/or misleading statements to consumers and prospective students designed to induce enrollment in the Computer Network Systems program.

A. ITT's Unfair and Harassing Sales Tactics

34. ITT relied on aggressive sales tactics to enroll students in the Computer Network Systems program.

35. ITT's advertising campaign was pervasive. In addition to placing advertisements on the radio, television, and internet, ITT also encouraged prospective students and current students to provide contact information for family and friends. ITT then used that information to inundate these new targets with direct mail and phone calls.

36. ITT's admissions representatives were given lists of prospective students to contact, and those lists were updated throughout the day. Former admissions representatives described to the AGO a competitive and fearful working environment. They were expected to call up to 100 prospective students per day and were publicly shamed and/or fired if they failed to meet their quotas.

37. When an admissions representative called a prospective student but was unable to reach him or her, the representative was instructed to keep calling the prospective student at least

every 24 hours. One former admissions representative told the AGO that he was required to contact each prospective student at least three times per day.

38. Several former students of the Computer Network Systems program (“former students”) described receiving “many calls & emails sometimes daily,” “harass[ing] calls and emails,” “constant phone calls,” and “so many calls and emails every day.”

39. In addition to its internal efforts to contact prospective students, ITT also contracted with telemarketing firms to contact prospective students and schedule interviews. When a telemarketing firm successfully scheduled an appointment with a prospective student, an ITT admissions representative had to contact the prospective student immediately and, if the appointment was scheduled for more than 72 hours in the future, attempt to schedule a sooner appointment.

40. Part of ITT’s recruitment strategy was to persuade prospective students to visit a campus as soon as possible, where maximum pressure could be applied to induce them to enroll. Once on campus, prospective students were encouraged to apply, take an admissions exam, and complete a financial aid pre-appointment that same day.

41. The process drove prospective students quickly toward enrollment. As one former student noted, he was pushed through the admissions process in less than an hour, “in and out.” Another former student said that the admissions process was “rushed as if they were doing whatever they could as fast as they could to get my signature.”

42. Two former students analogized the admissions representatives to car salesmen, and one of those students elaborated that the process was similar to “when you buy a car. They wanted you to sign before you left the building knowing that if you left you may research their programs and not enroll.”

43. ITT instructed its admissions representatives to pressure prospective students to enroll the same day they visited ITT. As one former admissions representative told the AGO, “[A]dmissions representatives were instructed to pressure prospective students to enroll immediately during their campus visit. We were trained to make visiting prospective students feel that enrolling at ITT Tech was their only way out of their problems. For example, when prospective students had small children, I would help those prospective students visualize what a degree from ITT could do to improve their children’s lives.”

44. Admissions representatives pressured prospective students to enroll regardless of whether they were likely to succeed in the program. Former admissions representatives described to the AGO prospective students who had fourth grade reading levels or learning disabilities that would have prevented them from succeeding at ITT, who were nonetheless enrolled.

45. As a result of ITT’s unfair and harassing sales tactics, Massachusetts consumers enrolled in the Computer Network Systems program from 2010 through at least May 2013 and, as a consequence of their enrollment, incurred substantial debt without obtaining jobs in their field of study and without achieving a commensurate increase in earning power sufficient to repay their student loans.

B. ITT’s Disclosure of False and/or Misleading Job Placement Rates to Prospective Computer Network Systems Students

46. From 2010 through at least May 2013, a key part of ITT’s recruiting efforts to enroll students in the Computer Network Systems program involved written and oral statements concerning ITT’s career-training preparation for jobs in the students’ field of study and ITT’s influence and historical success in placing students in those jobs.

47. ITT marketed itself to consumers and prospective students as a career school whose graduates: (i) were sought out by employers and (ii) achieved professional and economic success, allowing them to provide for their families.

48. At various times from 2010 through at least May 2013, ITT's website stated:

- "[W]e are committed to helping men and women develop skills and knowledge to pursue opportunities in many of today's promising career fields."
- "Emphasis is placed on helping you begin to develop skills and knowledge in technical areas that can have practical value in the workplace."

49. Typical advertisements depicted graduates who were struggling financially before attending ITT but who were happy in their careers after having graduated from ITT. In one testimonial, an ITT graduate said, "[My education] allows me to provide for [my family] in ways that, before my education, I don't think I would have been able to." In another, an ITT graduate shared, "I was working in the automotive industry back in Detroit, when I was laid off, you know, there's a lot of fear; what am I going to do to provide for my family. I had to make a positive change. I chose ITT Technical Institute and I don't worry about that anymore. I don't."

50. ITT consistently advertised its graduates as being able to provide, not just for themselves, but also for their families. Former students described the advertisements they saw as "promising great jobs and careers" that would allow you to "live comfortably with your family." Another former student described the advertisement he saw as depicting "an individual in a family setting talking about how great ITT Tech worked out for him and how his life changed."

51. One former student enrolled in the Computer Network Systems program after seeing advertisements indicating that ITT would help him "find[] a career job, earning great pay,

not stuck in a dead end job.” According to that former student, “I am still stuck in a dead end job doing the same thing I was doing before I went to ITT Tech.”

52. ITT’s website specifically described the Computer Network Systems program as preparing students for jobs in their field of study. In 2010, ITT’s website stated, “In 2002, the Information Technology Association of America projected that hiring managers expected 1.1 million technology job openings for that year, and that these managers would not be able to fill almost 600,000 of these jobs due to a shortage of qualified workers.” ITT kept this information on its website until at least 2010 despite the fact that it knew or should have known that those numbers were inflated. The website further stated that “[a]s a computer network systems technologist, you could help meet the demand for technically competent individuals” and that the Computer Network Systems program helps “graduates begin careers in ... various fields involving IT and computer network systems.”

53. Since 2010 and continuing through at least May 2013, ITT reported historical placement rates to prospective students, its accreditor, and the public. The representations of historical placement rates were contained in oral recruitment statements made by ITT employees and in written marketing and recruitment materials.

54. From 2010 through at least May 2013, ITT’s representations regarding the historical job placement rates for Computer Network Systems graduates were false and/or misleading. ITT led consumers, prospective students, and its accreditor to believe that the Computer Network Systems program produced very high rates of employment in or related to the graduates’ field of study, when ITT knew or should have known that those placement percentages were inaccurate and that its actual success in placing graduates was considerably lower.

55. In the process of enrolling students in the Computer Network Systems program, ITT's admissions representatives told prospective students that they would obtain jobs in their field of study within nine months of graduating from ITT.

56. ITT's admissions representatives also provided prospective students with Graduate Employment Information disclosures. These disclosures historically indicated that ITT had perfect or great success in helping Computer Network Systems graduates obtain employment. Each disclosure provided information about students who graduated during a particular calendar year and obtained employment by April 30th of the following calendar year. From 2010 through at least May 2013, ITT provided prospective students with disclosures showing that anywhere from 80% up to 100% of the Computer Network Systems graduates were employed in jobs that required the direct or indirect use of skills taught in the program.

57. ITT reported similar placement rates to its accreditor. While the Graduate Employment Information disclosures that ITT provided to consumers and prospective students contained placement rates for graduates on a calendar year basis, ITT's reports to its accreditor contained placement rates based on a July to June time period. For the July 2009 to June 2010 time period, ITT disclosed to its accreditor that nearly 95% of the Norwood campus Computer Network Systems graduates who were not continuing their education had jobs in or related to their field of study. For that same time period, ITT disclosed to its accreditor that nearly 75% of the Wilmington campus Computer Network Systems graduates who were not continuing their education had jobs in or related to their field of study.

58. The placement rates for the Computer Network Systems program provided to consumers, prospective students, and ITT's accreditor were false. A sample of Computer Network Systems students that includes all 2009 graduates whose employment information was

used to calculate ITT's purported placement rates disclosed to prospective students between June 2010 and May 2011 shows that ITT's stated placement rates were substantially and materially false and inflated.

59. In representations to consumers and prospective students, ITT disclosed that it had placed 100% of the 43 students who graduated in 2009 from the Norwood campus Computer Network Systems program. The actual placement rate for graduates was approximately 50% or less. For the Wilmington campus, ITT disclosed that 82% (45 out of 55) of the students who graduated in 2009 from the Computer Network Systems program were placed. Again, the actual placement rate for graduates was approximately 50% or less. Because less than half of the students who enrolled in a Computer Network Systems program usually graduated, the actual placement rate for all enrolled students was even worse.

60. ITT used different falsification techniques to count Computer Network Systems graduates as placed when they were not, including: (i) counting as placements jobs that were not in or related to the graduates' field of study and (ii) counting internships or short-term, unsustainable jobs as placements. From 2010 through at least May 2013, ITT did not disclose to consumers and prospective students that its placement rates included as "placements" graduates with jobs outside their field of study and graduates with internships or short-term, unsustainable jobs who never received permanent, sustainable employment.

61. ITT perpetrated this deception by engaging in a variety of unfair or deceptive acts or practices.

i. Jobs outside the field of study

62. ITT falsified its placement rates by counting graduates as placed when they obtained jobs that were outside their field of study.

63. During the admissions process, prospective students were shown “career wheels” to help them decide in which programs to enroll. Admissions representatives were instructed to tell prospective students, “The center of the wheel is the program itself, and radiating around it are the courses and the corresponding job titles. Take a moment to look at these and tell me what interests you.” The job titles listed on the Computer Network Systems “career wheel” were Network Security Specialist, Network User-Support Specialist, Network Technician, LAN Technician, WAN Specialist, Data Communications Specialist, Linux Specialist, Web Server Administrator, and Network Administrator.

64. Similarly, the Graduate Employment Information disclosures that ITT provided to prospective students from 2010 through at least May 2013 listed the types of employment purportedly obtained by graduates of the Computer Network Systems program. Job titles listed included Desktop Support Technician, Technical Support Specialist, Help Desk Analyst, Network User-Support Specialist, Computer Network Technician, Systems Administrator, Web Server Administrator, and Windows Administrator.

65. Most students who graduated from a Computer Network Systems program did not obtain the types of jobs listed on the “career wheel” or on the Graduate Employment Information disclosures.

66. ITT counted any graduate of a Computer Network Systems program as placed so long as that graduate’s employment somehow involved the use of a computer. In describing why a facilities manager whose routine tasks included unclogging drains and ordering janitorial supplies was counted as placed, ITT’s Vice President of Career Services told the AGO, “I see bullets [on the job description] that support the fact that there would be IT systems within the

facility” and that “somebody is doing IT work to ensure that those systems are up, operational....”

67. ITT also frequently counted as placed graduates of a Computer Network Systems program if the graduates’ jobs involved selling computers. ITT’s Vice President of Career Services explained to the AGO that selling software and software solutions requires “tapping into the knowledge that you learned in the core courses of your program of study to help support the recommendation or to walk someone through what they would need based upon the requirements of their system.” ITT claimed that jobs at big-box stores counted as placements even though: (1) some graduates were selling basic computers to students and families and (2) these graduate were sometimes hired well before enrolling at ITT. Moreover, despite the frequency with which ITT counted these sales jobs as placements, ITT did not list “sales associate” as a typical job title on its “career wheel” or on the Graduate Employment Information disclosures provided to prospective students from 2010 through at least May 2013.

68. ITT also relied on “catch-all” job descriptions indicating that a graduate performed enumerated tasks unrelated to the graduate’s field of study but also unspecified “other” tasks. For example, ITT counted a bank teller as placed because the job description stated that the graduate, in addition to “processing customer transactions,” performed “a variety of other bank related processes.” ITT inferred that these other bank related processes involved the use of skills learned in the Computer Network Systems program.

69. Other jobs that ITT counted as placements are similarly difficult to explain. For example, ITT counted as placed a graduate who provided customer service for an airline by checking customers into their flights and helping to board and deplane aircraft.

ii. *Short-term jobs*

70. ITT also falsified its placement rates by counting internships and temporary contract positions that it knew or should have known were short-term and unsustainable.

71. It was ITT's policy to count short-term contracts lasting as little as one month as placements. According to the policy, a graduate could even fulfill the month-long duration requirement while "work[ing] for a temp agency and [having] one or more different jobs that total 30 hours/week."

72. Even if ITT knew that a graduate's employment ended less than two months after it began, ITT still counted the graduate as placed. For example, ITT counted one student as placed based on a job that started a month before his graduation and ended both a month after his graduation and just days before ITT allegedly "confirmed" the employment.

73. The Graduate Employment Information disclosures that ITT provided to prospective students from 2010 through at least May 2013 did not state that ITT was including in its tally of "employed graduates" individuals who had short-term contracts.

74. ITT's policy that placements needed to last a minimum of a month was furthermore illusory. ITT historically made little, if any, attempt to ascertain whether a graduate's employment fulfilled the minimal month-long duration requirement. Prior to May 2012, ITT had no formal procedures in place to verify whether a graduate had worked a full month. ITT simply relied on employment verification forms that ITT asked its graduates and their employers to fill out at the point of hire. The form that ITT used did not ask whether the job was expected to last a full month, nor did it include an instruction stating that the form should only be filled out if the job was expected to last a full month.

75. While at least one ITT employee told the AGO that ITT verbally instructed all graduates and their employers not to fill out an employment verification form if the job was expected to last less than a month, the reality was that ITT counted graduates as placed based on jobs that lasted less than a week. For students who graduated from the Wilmington campus Computer Network Systems program in 2009 – whose employment information ITT disclosed to prospective students beginning in 2010 – at least eight out of 45 reported placements were with Triwire Engineering Solutions. Of those eight “placements,” only three lasted more than one month, and even those three did not last for more than a few months. In fact, one graduate was not placed at all, and three “placements” lasted a week or less.

76. Worse yet, ITT often failed to verify whether a graduate began a job at all. For students who graduated from a Computer Network Systems program in 2009 – whose employment information ITT disclosed to prospective students beginning in 2010 – approximately 15 out of 88 reported placements were based on employer verification forms that were filled before the graduate’s scheduled start date. The forms do not indicate that anyone from ITT ever contacted the graduate or employer to verify whether the graduate started the job, let alone whether the job lasted a full month or whether the job actually required the use of skills learned at ITT. Of these “placements,” the Commonwealth estimates that no more than half turned into permanent in-field or related-field employment.

77. In at least three instances, ITT even counted as placed graduates who did not provide start dates or listed their start dates as “TBD.” The start date of a graduate’s employment is a critical term of the contract, without which there can be no placement.

78. Many Computer Network Systems graduates were reported as placed based on employment with staffing agencies. ITT knew or should have known that jobs with staffing

agencies are frequently temporary contract positions, yet prior to May 2012 ITT made no attempt to verify whether graduates placed with staffing agencies worked a full month. For students who graduated from the Norwood campus Computer Network Systems program in 2009 – whose employment information ITT disclosed to prospective students beginning in 2010 – at least 12 out of 43 reported placements were with Adecco Staffing Agency, a company that describes itself as specializing in temporary staffing. In fact, temporary staffing accounts for the vast majority of Adecco's business. In 2010, Adecco generated 92% of its revenue from temporary staffing and only 2% from permanent placements.

79. Beginning in or around May 2012, ITT began using a new employment verification form. The new form asks each graduate and his or her employer to describe the job type by circling one of the following four categories: direct hire, contract, self-employment, or temp-to-perm. At the same time, ITT implemented a new verification procedure for graduates hired into contract positions. The new procedure requires someone from ITT to verify whether these graduates work at least 30 days. However, this policy does not extend to a graduate who describes his or her job type as direct hire, self-employment, or temp-to-perm.

80. As a result of ITT's failure to verify whether a hoped-for job came to fruition or an actual short-term job lasted at least a month, ITT counted graduates as placed when they did not have viable permanent employment.

81. ITT's representations to consumers and prospective students from 2010 through at least May 2013 concerning the historical placement rates for Computer Network Systems graduates were knowingly false and material and had the effect of inducing students to enroll in the Computer Networks Systems program and providing access to tuition and fees acquired by ITT.

C. ITT's Disclosure of False and/or Misleading Salary Ranges to Prospective Computer Network Systems Students

82. Part of ITT's sales pitch to prospective students included a large color graph indicating that the mean annual income for someone with an associate degree was over \$48,000. Admissions representatives were instructed to show this graph to prospective students and talk about how investing in your education affects your earnings over your life. Admissions representatives would also pause and ask prospective students to comment on what the graph meant to them. A \$48,000 salary is consistent with ITT's advertisements depicting graduates who are able to provide for their families.

83. Later in the admissions process, ITT provided prospective students with Graduate Employment Information disclosures. These disclosures indicated that Computer Network Systems graduates had average annualized salaries of \$30,000-\$35,000 and that some Computer Network Systems graduates earned salaries as high as \$60,000-\$90,000. The disclosures also suggested that all estimates provided thereon were low because ITT excluded from its calculations "other factors that may be part of a compensation package, such as bonuses, incentives and the value of employee benefits."

84. Despite the fact that the average annualized salaries listed on ITT's Graduate Employment Information disclosures were lower than on the large color graph shown and discussed with prospective students during ITT's sales pitch, the salaries listed on the Graduate Employment Information disclosures were still also inflated. To calculate the salaries listed on the disclosures, ITT included annualized salaries of graduates who worked less than a month, and even as little as a day, thus grossly overstating how much money those graduates made in the course of a year.

85. Even though ITT showed prospective students a large color graph suggesting that they would make close to \$50,000 upon graduating from ITT and then different information later on in the admissions process, ITT's admissions representatives could not answer questions about salary ranges. If a prospective student had questions about any of the salary information he or she received during the admissions process, ITT's admissions representative were forbidden from answering those questions.

86. In contrast to ITT's sales pitch to consumers, ITT's disclosures to investors presented a harsher reality regarding graduates' salaries. ITT's 2011 10-K states that for students who graduated in 2009 from all ITT campuses and programs, including not just associate degree programs but also bachelor degree programs, and obtained employment by April 30, 2010, the annualized salaries averaged approximately \$31,600.

87. ITT knew or should have known that students enrolled in the Computer Network Systems program based on unrealistic salary expectations. A current ITT employee told the AGO that some students who enroll "expect a six-figure salary after earning their associate degree with zero prior experience." While admissions representatives were prohibited from discussing salary ranges with prospective students, and from telling prospective students that six-figure salaries were unrealistic, the first or second step that occurred during career counseling with students, after they were enrolled and had paid substantial sums of money to ITT, was to set expectations regarding realistic salary ranges.

88. Once Computer Network Systems students graduated and began job searching, they learned that their salaries would be insufficient to provide for their families. One former student stated that every interview he received through ITT's career services "presented wages where I wouldn't be able to afford the cost of living."

89. ITT's representations to consumers and prospective students from 2010 through at least May 2013 concerning earnings were knowingly false and material and had the effect of inducing students to enroll in the Computer Network Systems program and providing access to tuition and fees acquired by ITT.

D. ITT's Misrepresentations Regarding the Nature, Character, and Quality of the Computer Network Systems Program

90. From 2010 through at least May 2013, ITT advertised and promoted the nature, character, and quality of its campuses as providing hands-on training and personalized attention.

91. Direct mailings to prospective students stated, "ITT Technical Institute offers **practical, hands-on experience** in fields where there are good careers. You spend your time learning the things you need to do a good job. You don't spend time on subjects that are unrelated to your career goals."

92. ITT's website advertised, "Unlike many traditional colleges, where students spend most of their time listening to lectures in most programs, ITT Tech students also spend considerable time in the lab, where they are encouraged to apply what was taught in the classroom and see for themselves who, why and what makes things work."

93. Former students described a dramatically different classroom experience at the campuses. According to the students, hands-on instruction was nonexistent or involved the use of outdated technology.

- During the enrollment process, one student said he was told that it was a "hands on program," but then the actual classes only involved "bookwork."
- Another former student "was told the labs and classrooms were top of the line," when in reality "the materials we used in class were sub-par."

- One student noted that “lab sessions involved [equipment] that didn’t even work (meaning no hands on experience).”
- Two additional students described outdated materials: One stated that “technological tools ... were outdated or not available,” and another stated, “I took classes that were outdated and had no relevance within my field.”

94. Aside from the lack of hands-on training, students also experienced difficulty learning due to unknowledgeable and/or absent teachers. One former student was often told to “Google” the answers to his questions. He also described a teacher who quit halfway through a semester without ITT providing a replacement “so we came in just so we [didn’t] lose loans or get dropped from class.” Other former students described the following:

- In “one of my classes I got an A just for showing up. [T]he teacher just sat there and didn’t teach us.”
- “[T]he instructors didn’t have a vast knowledge of the subject matter being taught. I had to teach myself or ask other students for assistance....”
- Teachers “would read from the book instead of lecture” and were “unable to answer questions.”
- “The teachers were horrible and had less knowledge than most students.”
- “They didn’t have regular instructors to teach us. They were always leaving.”
- Teachers were often “tardy or absent.”

95. ITT’s representations to consumers and prospective students since 2010 and continuing through at least May 2013 concerning the nature, character, and quality of its education were knowingly false and material and had the effect of inducing students to enroll in

the Computer Network Systems program and providing access to tuition and fees acquired by ITT.

E. ITT's Misrepresentations Regarding the Nature and Availability of Financial Aid

96. ITT's advertisements stated that financial aid was available for those who qualify, and when prospective students expressed that affording tuition was a concern, admissions representatives were instructed to state, "Many students feel apprehensive when considering the investment they have to make to obtain the education they want or need, until they learn what types of financial aid they may qualify for and how ITT Tech can help them through the financial aid process." In reality, ITT's financial aid options did not make an ITT education affordable for students.

97. ITT offered Computer Network Systems students short-term loans that it called "Temporary Credits." A Temporary Credit was an interest-free loan most frequently offered to new students and due in one lump sum payment usually within a year of receiving the credit and during the student's course of study.

98. The terms of each student's Temporary Credit were memorialized in a Cost Summary Payment Addendum ("CSPA") which also served as the student's financial aid award letter.

99. The first two pages of each CSPA listed the student's estimated tuition, fees, and costs and the "ESTIMATED Funds the School Expects to Receive From or on Behalf of Student." The first two line items for funding sources were "Cash Received to Date" and "Student/Parent Cash Payment." Each CSPA also listed several types of loans that a student could have had and clearly labeled them as loans. The first mention of the student's Temporary Credit appeared on the bottom of the second page where ITT included line items for other

funding sources. Unlike the other types of loans listed on the CSPA, the Temporary Credit was not described as a loan. Not until the top of the third page did ITT provide the annual percentage rate, the amount financed, or the due date of the student's Temporary Credit.

100. By listing students' expected cash payments separately from their Temporary Credits, the CSPAs gave the overall impression that students would not have to repay their Temporary Credits during their courses of study.

101. ITT provided Temporary Credits to Computer Network Systems students who did not have cash to pay the difference between the cost of their education and their other loans and grants. ITT knew or should have known that most of these students would therefore also be unable to make the required lump sum payments during their courses of study when they were not working or earning money. In order to be repaid under the terms of its Temporary Credit agreements, ITT arranged for these students to take out more expensive loans to repay ITT.

102. In or around February 2009, ITT entered into an agreement with a credit union service organization whereby loans were issued to ITT students ("CUSO program"). Loans were originated through the CUSO program through December 2011. In connection with the CUSO program, ITT entered into a risk sharing agreement under which it guaranteed the repayment of any student loans that were charged off over a 35% threshold.

103. Loans issued to ITT students under the CUSO Program had origination fees ranging up to 10% and variable interest rates ranging up to the prime rate plus 11.5%, not to exceed 18% per annum.

104. In or around January 2010, ITT entered into a guarantee agreement in connection with the PEAKS Private Student Loan Program ("PEAKS program"). Loans were originated through the PEAKS program through July 2011. Under the terms of the PEAKS program, a

lender issued loans to ITT students and then sold those loans to a trust. To finance the purchase of these loans, the trust issued debt in the aggregate principal amount of \$300 million to investors, and ITT guaranteed payment of the principal and interest on the debt.

105. Loans issued to ITT students under the PEAKS program had origination fees ranging up to 10% and variable interest rates ranging up to the prime rate plus 11.5%, not to exceed 25% per annum.

106. Loans issued under the CUSO and PEAKS programs were more expensive for students than federal student loans. Federal student loans have substantially lower interest rates (between 4.5% and 6.8% in 2010) and substantially lower origination fees (usually between 1% and 2%).

107. When students' Temporary Credits became due, they needed to repay ITT to continue their courses of study. Knowing that most students lacked the funds to make any such payments, ITT directed these students to their only available funding sources: the expensive CUSO and PEAKS programs.

108. ITT's policies and procedures had the effect of steering Computer Network Systems students into expensive CUSO and PEAKS loans that they could not afford in order to repay their Temporary Credits.

109. Both the CUSO and PEAKS programs have performed abysmally due to high default rates. On October 29, 2013, ITT estimated that loans issued through the CUSO and PEAKS programs would default at a rate of 59%. In addition, under the PEAKS program, as of December 31, 2015, ITT had already made guarantee payments totaling over \$189 million and anticipated making additional guarantee payments of nearly \$20 million.

110. ITT's creation of its Temporary Credit loan program and ITT's steering of Computer Network Systems students into expensive private loans which ITT knew or should have known students would be unable to repay in accordance with their terms are unfair or deceptive acts or practices.

CAUSE OF ACTION
(Violation of G. L. c. 93A)

111. The Commonwealth repeats and realleges paragraphs 1 through 110 of the Complaint.

112. ITT has engaged in unfair or deceptive acts or practices in violation of G. L. c. 93A, § 2. Such unfair or deceptive acts or practices include, without limitation, the following:

- i. unfair and harassing sales tactics, including placing undue pressure on Massachusetts consumers and prospective students to enroll;
 - ii. making false and/or misleading representations to Massachusetts consumers and prospective students concerning the placement rates of its Computer Network Systems graduates;
 - iii. making false and/or misleading representations to Massachusetts consumers and prospective students concerning the wages or salaries they would earn upon graduation from a Computer Network Systems program;
 - iv. making false and/or misleading representations to Massachusetts consumers and prospective students concerning the nature, character, and quality of its Computer Network Systems program and the quality of instruction offered at its campuses;
- and

- v. hiding the fact that Computer Network Systems students would have to repay their Temporary Credits during their courses of study and then, when the students' Temporary Credits became due, steering these borrowers to expensive CUSO and PEAKS loans when ITT knew or should have known that the students would be unable to repay the loans in accordance with their terms.

113. ITT's false and/or misleading representations to consumers, prospective students, and others were material and deceived or had the tendency or capacity to deceive or mislead potential and existing consumers, inducing consumers to enroll in the Computer Network Systems program and to make tuition and fees payments to ITT.

114. ITT knew or should have known that the representations made to consumers, prospective students, and others were false and/or misleading. ITT knew or should have known that its acts or practices were unfair or deceptive acts in violation of G. L. c. 93A, § 2.

115. ITT acquired tuition and fees by reason of its unfair or deceptive acts or practices, causing students to suffer an ascertainable loss by paying out funds and/or incurring student loan debts.

116. ITT's unfair or deceptive acts or practices resulted in harm to consumers.

RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court:

A. Issue a permanent injunction restraining ITT, its 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, and/or to its accreditor concerning job placement rates, including its 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 actual or probable earnings and opportunities available to students and graduates;
- iii. making false and/or misleading representations to the public and to prospective and current students concerning the nature, character, and quality of its educational programs;
- iv. making false and/or misleading representations to the public and to prospective and current students concerning financial aid;
- v. steering private loans to student borrowers who are unable to repay the loans in accordance with their terms; and
- vi. failing to disclose material information to the public and to prospective and current students concerning placement rates, probable earnings, the nature, character, and quality of its education programs, and financial aid.

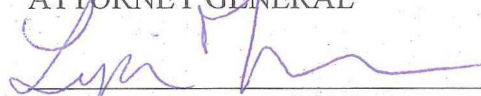
B. Order ITT to make full and complete restitution to current and former students of the Computer Network Systems program, including but not limited to the repayment to students of all tuition monies acquired by ITT as a result of its unfair or deceptive acts or practices.

C. Order ITT to pay the Commonwealth civil penalties of \$5,000 for each violation of G. L. c. 93A, § 2, and costs, including reasonable attorneys' fees, pursuant to G. L. c. 93A, §

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

Dated: 3/31/2016

COMMONWEALTH OF MASSACHUSETTS
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