

**STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS**

IN THE INVESTIGATION OF:

Case No. L10-3-1201

KEISER UNIVERSITY, et al.

Respondents

ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT to the provisions of Chapter 501, Part II of the Florida Statutes, Florida's Deceptive and Unfair Trade Practices Act, the OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS (hereinafter referred to as the "Department"), conducted an investigation into the business practices of EVERGLADES COLLEGE, INC., d/b/a KEISER UNIVERSITY and EVERGLADES UNIVERSITY; and BAR EDUCATION, INC., d/b/a KEISER CAREER COLLEGE (collectively "Respondents").

Respondents enter into this Assurance of Voluntary Compliance (hereafter referred to as the "AVC") without an admission that they have violated Florida's Deceptive and Unfair Trade Practices Act, or any other law, and solely for the purpose of resolution of this matter with the Department.

The Department, by and through the undersigned Associate Deputy Attorney General, accepts this AVC and agrees to the termination of this investigation as set out in the terms of this AVC as to Respondents and any previous owners, pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Department by said statute.

I. BACKGROUND

The Department and Respondents hereby agree and stipulate to the following:

1. Respondents are in the business of offering and providing college, career, and other educational programs in the State of Florida through ground campuses and online.
2. It is agreed by the parties that the Department has jurisdiction over the Respondents for the purpose of entering into this AVC and in any action by the Department to enforce the AVC.
3. The Department has investigated allegations that Respondents made certain misrepresentations, misleading statements or otherwise omitted or failed to disclose material

information in connection with marketing and selling its schools and programs to prospective students in violation of Florida Statutes Section 501.201 et seq. The Department acknowledges that the Respondents have cooperated in the investigation.

4. Respondents make no admission that they engaged in any wrongdoing or committed any violation of Florida Statute 501, Part II, or any other law, rule or regulation. This AVC contains neither findings of fact nor conclusions of law.

5. Respondents and the Department desire to resolve all issues arising during the course of this investigation or that gave rise to this investigation. Respondents deny any wrongdoing and attest that they are currently in compliance with the terms of this AVC.

II. TERMS

6. Respondents agree to comply, or to continue to comply, in all material respects with the voluntary injunctive relief set forth in this Section II. The Department acknowledges that to the extent the injunctive relief set forth in this Section is conduct regulated by other state and federal agencies and the applicable state or federal regulations are modified after the effective date of this AVC to expressly authorize or to prohibit any of the agreed-upon conduct, the Department will not seek to enforce any provisions of this AVC that conflict with the modified state or federal regulations. Respondents' agreement hereunder shall not be construed as an admission of any violation or past practices.

7. The terms used herein shall have the following meanings:

a. **"Make readily available"** shall mean providing the requested information to the consumer in a reasonably accessible format, which may include telephonically, via email, via website, or through any other communication method through which Respondents regularly communicate with consumers;

b. **"Clear and conspicuous"** (including "clearly and conspicuously" and any derivative thereof) shall have the following meaning: a statement, representation, claim, disclosure or term being conveyed shall be presented in a way that a reasonable consumer will, with reasonable effort, notice and understand the statement, representation, claim, disclosure or term. The following, without limitation, shall be considered in determining whether a statement, claim, term, or representation is clear and conspicuous:

i. whether it is of sufficient prominence in terms of font, size, placement, color, contrast, duration of appearance, sound and speed, as compared with accompanying statements, claims, terms or representations so that it is readily noticeable

(or, for a website, available) and understandable, and available to be read by the person to whom it is directed; and if written or conveyed electronically, that it is not buried in unrelated information or placed on the page in a manner, or location, where a reasonable person would not think it important to read;

ii. whether it is presented to the person(s) to whom it is directed in a coherent and meaningful sequence with respect to other terms, representations, claims, or statements being conveyed;

iii. whether it is in close proximity to the statement, representation, claim, or term it clarifies, modifies, explains, or to which it otherwise relates;

iv. whether it contradicts or renders substantially confusing any other information with which it is presented;

v. whether, if it is oral, it is understandable to a reasonable consumer;

vi. whether, if it is oral or visual, it appears for a duration sufficient to allow listeners or viewers to have a reasonable opportunity to notice, read, or otherwise understand;

vii. whether the language and terms used may be reasonably understood by the consumer in the context in which they are used;

viii. whether it is presented in such a way as to be free of significant distractions caused or authorized by Respondent, including but not limited to sound, graphics, text or other offers that are likely to significantly distract the attention of the consumer;

ix. whether, in advertising on the Internet, it is made on the same page as any other term, statement, claim or representation that it modifies, and above the fold (i.e., before unrelated materials or advertisements) except to the extent the format or placement is expressly mandated by a federal or state regulatory agency, or an accrediting body; and

x. whether the disclosure, term, condition or representation appears on the Internet on a co-registration order path in which numerous offers for various goods and services are represented to be free, and the consumer is required to accept a certain number of offers.

Any statement, disclosure, term, claim, or representation that uses a narrative required by a governmental agency or federally recognized accrediting body is presumed to meet the standard of “Clear and Conspicuous,” which prima facie presumption may be rebutted upon sufficient showing.

8. Respondents shall, and shall direct their representatives, agents, employees,

successors, assigns, independent contractors or any other person who acts under, by, through, or on behalf of Respondents, directly or indirectly, or through any corporate or other device, to:

a. Comply with the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes;

b. Make readily available true and accurate information regarding the following in response to any consumer inquiry:

i. the price and all costs (including tuition, books, and any other fees or costs) associated with completion of any program, degree, or certificate offered by Respondents promptly upon request from any consumer;

ii. any prerequisites or requirements for admission to the school or program;

iii. the content, length, availability, currently scheduled or projected start dates, and the frequency of Respondents' programs, including whether or not Respondents offer the specific program for which a consumer inquires, which campus(es), if any, offer the requested program, and any suggestions of alternate programs must truthfully disclose the material distinctions between the alternate program and the program being sought by the consumer;

iv. the most recently reported graduation rates and placement rates for the programs offered at the Respondent's programs for the time frame required by the accrediting agencies that accredit each of the Respondent's programs; and

v. the scope and nature of career services assistance that Respondents provide, including specifically the type of job placement services (if any) provided to students including on-campus interviewing, resume forwarding, or job-matching programs.

c. Clearly and conspicuously disclose to each prospective student prior to enrollment the following information:

i. the nature and source of Respondents' accreditation as an institution and whether the specific program or school at issue is separately accredited;

ii. any applicable license or certification requirements for employment in the field pertaining to programs selected by the consumer, including whether the program is a certificate or degree program, any license or certification exams for which the graduate will be eligible to sit upon graduation, the cost of the exam, and whether the cost of the exam is included in the price of the program, which information shall be updated at least annually as to any third party requirements or information; and

iii. the availability and process for applying for financial aid and the extent and nature of financial assistance including repayment obligations in the event of lack of satisfactory academic progress or failure to complete the course(s).

d. Provide that all admissions and financial aid representatives of Respondents are

specifically trained and routinely monitored to ensure that any representations regarding the following are accurate and complete:

i. Any applicable accreditations, including that representatives should not represent that any school or program is “fully accredited,” that accreditation indicates compliance with the standards of the accrediting agency; and that similar or identical accreditations do not necessarily equate to similar or identical academic reputations or educational experiences. Keiser University and Everglades University are accredited by the Southern Association of Colleges and Schools (“SACS”). Keiser Career College is not accredited by SACS and it shall not represent itself to be accredited by SACS, unless such accreditation is obtained; Keiser Career College is accredited by the Accrediting Commission of Career Schools and Colleges, an agency recognized by the U.S. Department of Education.

ii. Any applicable admissions requirements for the program at issue, including that Representatives should not represent that a recommendation or interview is required for acceptance into a program and/or that the admissions representative must recommend the consumer for acceptance prior to admission unless such a requirement exists and is expressly stated in the catalog;

iii. Any applicable deadlines for application or completion of enrollment, including that representatives should not use artificial and/or arbitrary deadlines and shall accurately disclose the availability, if any, of the course or program at a later date;

iv. Any applicable limits on the availability of courses in the term being currently enrolled (including that a program should not be described as in “high demand” or having limited availability), unless such limitations actually exist; and

iv. Representations as to the availability and nature of federal and state financial aid shall not be described as being without cost or similar terms. Representatives shall clearly and conspicuously disclose that repayment of grants and/or loans may be required if satisfactory academic progress is not maintained or the student does not complete the applicable course(s).

9. In addition, Respondents shall cause the following policies to be promptly implemented to the extent not already in place:

a. Representatives shall clearly and conspicuously disclose that credits of Respondents may not be accepted by any other educational institution and that acceptance of credits or degrees is determined solely by the receiving institution (except in the case of an existing articulation agreement), and Respondents shall provide mechanisms for the evaluation of incoming credit so that a student does not bear the burden of financial obligations associated with enrollment prior to Respondents receiving official or unofficial transcripts from the

student's educational institution(s). If it is confirmed by the official transcript(s) prior to the end of the first semester that the student was enrolled in a course that has already been satisfactorily completed, Respondents shall credit the student in the full amount of such course including any tuition charges, technology fees, book charges, and any other fees charged to the student for the course within thirty (30) days.

b. If and to the extent any error, omission, failure, delay, or other action by Respondents is the primary cause of a student receiving less than the federal financial aid requested by the student and for which the Respondent communicated to the student that he or she would be eligible (other than Respondents' action to correct inaccurate information submitted by the student or to update the status or information due to events subsequent to the applicable FAFSA application), Respondents shall promptly notify the student and shall (a) credit the student's account in the amount of any portion of grants not received due to the processing issue and (b) offer the student a school loan in materially similar financial terms as any subsidized or unsubsidized loans not received due to the processing issue which would otherwise have been available. This section shall not apply to instances where the error omission, failure, delay or other action by Respondent is caused by the student's failure to timely provide documentation required to process their financial aid;

c. Within ten (10) business days of any request by a student, including via, written, or email communication to the registrar, to withdraw from school or drop a course or program, Respondents shall confirm to the student the effective date of the withdrawal or drop and shall effectuate the requested drop and/or withdrawal of the student as of the last date of attendance in accordance with all applicable state or federal regulations.

d. Respondents shall not pay any employees directly responsible for admissions or financial aid (whether staff or management in the admissions or financial aid departments) incentive compensation based upon quotas or numerical standards as to student enrollment or retention. This subsection does not apply to employment termination decisions by Respondents; and

e. Continue to provide sufficient financial aid staffing and resources such that Respondents make reasonable efforts to provide a substantive response (*i.e.*, non-automated and material factual response to the question posed) to telephone messages or calls from current or prospective student regarding financial aid within five (5) business days of the request; to the

extent the recipient of the request is on scheduled leave or extended absence, notice shall be provided to the inquiring consumer of alternate personnel to whom the request can be directed in order to receive a timely response.

III. ADDITIONAL RELIEF

10. Respondents agree to provide retraining as follows:

a. Definitions

i. “Retraining Eligible Students” as used herein shall mean every student who during the Relevant Period attended a Retraining Eligible Program at one of the Respondents’ campuses or online during the Relevant Period; and (a)(i) indicated in writing at the time the student withdrew from school that he or she was dissatisfied with the services being provided; or (a)(ii) certifies that the student did not complete the course or program because the student was dissatisfied with the services provided by the Respondents and specifically did not withdraw due to disciplinary violation(s), failure or inability to attend course due to budgetary issues, health or family issues, childcare issues, transportation issues, relocation, schedule conflicts, imprisonment, a criminal violation, pregnancy, military service, academic failure (including failure to meet satisfactory academic progress standards), or eligibility for unemployment benefits or receipt of other government support or otherwise; or (a)(iii) completed the course or program and certifies and documents that despite reasonable good faith efforts to seek employment in the field for which he or she received training at Respondents’ institutions, he or she has been unable to obtain employment in the field in which training was received at Respondents’ institutions; and (b) where required, such certification is not factually refuted by Respondents’ existing academic, financial aid, placement, or other student information system records.

ii. “Retraining Eligible Programs” as used herein shall mean all programs of Respondents during the Relevant Period. Respondents have offered this definition in a show of good faith to their former students and in recognition of the current economic climate of the United States.

iii. “Relevant Period” as used herein shall mean from January 1, 2008 through the effective date of this AVC.

iv. “Audit Program” as used herein shall mean the retraining program

implemented pursuant to the terms of this AVC for Retraining Eligible Students.

v. “Voucher” as used herein shall cover the total tuition charges, technology fees, book charges, and any other fees charged to the respective Retraining Eligible Student in connection with his/her enrollment and/or attendance in any course or program during the Relevant Period, which amounts were not refunded or waived.

b. Audit Program

i. Each Retraining Eligible Student who in response to an individual notification in the form of Appendix A indicates an affirmative interest in retraining will receive from Respondents a notification that such student is eligible to receive a Voucher that may be applied to audit at no cost to the student (a) any course or courses (part of a program) which the student previously took or was charged for in connection with his or her enrollment and/or attendance at one of the Respondents’ campuses or online during the Relevant Period, or (b) any course or courses (part of a program) which is in the same field of study as the course or program originally attended by the student, whether credit was received or not. For any course or courses (part of a program) audited, student shall not be responsible for any tuition charges, technology fees, book charges, and any other fees charged to the respective Retraining Eligible Student in connection with his or her enrollment and/or attendance for the course or courses (part of a program).

ii. Each Retraining Eligible Student who audits a course under this AVC is eligible to receive credit upon satisfactory completion of the course and re-enrollment, provided such student did not previously receive credit for the course. If the Retraining Eligible Student received a full or partial refund upon withdrawing from the course during prior enrollment, the Retraining Eligible Student must repay the entire refund amount in order to be eligible for course credit.

iii. Within sixty (60) days of the effective date of this AVC, Respondents shall use good faith efforts through electronic mail or traditional mail to individually notify all Retraining Eligible Students of the availability of the Audit Program. Retraining Eligible Students have ninety (90) days from mailing (postmarked) by Respondents to submit a request to participate in the Audit Program and may commence utilizing the Audit Program on or before June 1, 2013.

iv. If a Retraining Eligible Student timely utilizes the Audit Program, the

Audit Program shall be effective to offset any tuition or fees otherwise chargeable to the student's account.

v. A Retraining Eligible Student may audit each particular course only once. Respondents will respect any documented leaves of absence in accordance with published policies.

vi. A Retraining Eligible Student who requests to participate in the Audit Program will be required to release the Respondents from any liability for any actions related to their prior enrollment by executing a general release.

vii. A Retraining Eligible Student who requests to participate in the Audit Program under this AVC must sign an agreement that he/she will not seek financial aid for attending the Audit Program.

viii. Respondents shall provide the Department with updates on a quarterly basis as to the Audit Program commencing thirty (30) days after the effective date of this AVC and continuing for twelve (12) months. The reports provided shall detail Respondents' compliance with the obligations set forth in Paragraph 10 herein.

11. Scholarship Donation. As part of the student benefits set forth in Paragraph 10, Respondents have agreed to provide retraining to all Retraining Eligible Students in all programs of the Respondents for the Relevant Period (January 1, 2008 through the effective date of the AVC). Additionally, Respondents have voluntarily agreed to the enhanced retraining provisions anticipated to provide substantial value to Retraining Eligible Students associated therein as a show of good faith to their former students and in recognition of the current economic climate of the United States. However, if more than twenty-five (25) percent of the total enrollees at Respondents' schools between January 1, 2008 through the effective date of the AVC re-enroll to participate in the Audit Program and attend a course or program in compliance with the attendance policy of the Respondents' schools, Respondents shall donate the amount of \$375,000.00 (three hundred seventy-five thousand dollars) to the scholarship fund(s) designated by the Department ("Scholarship Fund"), which shall be selected in the sole discretion of the Department subject to the remaining provisions of this paragraph and shall be allocated equally between the Scholarships for Children and Spouses of Deceased or Disabled Veterans and Service members, the Florida Bright Futures Scholarship fund and/or the Florida Public Postsecondary Career Education Students Assistance Grant Program, provided such scholarship

fund provides the student with the opportunity to attend the educational institution of their choice, including private non-profit, private for-profit, and public institutions. Any unawarded funds in any of the aforementioned scholarships may be allocated by the Florida Department of Education to the remaining scholarship(s) identified herein. All payments to the Scholarship Fund, if any, shall be made payable as the Department may instruct to Mark S. Hamilton, Bureau Chief, North Region, Economic Crimes Division, The Capitol, PL-01, Tallahassee, Florida 32399.

12. Attorneys' Fees and Investigative Costs. The parties agree that Respondents shall contribute \$175,000.00 (one hundred seventy-five thousand dollars) to the State of Florida, Office of the Attorney General, Department of Legal Affairs, pursuant to Section 501.2105, Florida Statutes, in payment of all attorneys' fees, costs and investigative fees regarding this investigation and toward enforcement of this AVC and future investigative expenses. Respondents shall submit such payment to Mark S. Hamilton simultaneously with the original AVC executed by authorized representatives of Respondents. Payments due hereunder shall be made by cashier's check or other certified funds payable to Department of Legal Affairs Revolving Trust Fund.

13. Expedited Arbitration. Students enrolled in a program or course, or who incurred tuition charges in connection with a program or course, and who have asserted a claim for monetary or injunctive relief against Respondents relating to the students' enrollment with or attendance at Respondents' institutions may, in lieu of pursuing relief in any other forum, may participate in an Expedited Arbitration Process as follows:

- a. "Asserted a claim" means that the student has, from January 1, 2008 through the effective date of this AVC: (i) filed an arbitration or lawsuit against Respondents; (ii) submitted a written or e-mail grievance to Respondents that was not resolved in a remedy that was accepted by the student; or (iii) submitted a complaint to the Florida Office of the Attorney General, the Florida Department of Education, or the Better Business Bureau that was not resolved in a remedy that was accepted by the student.
- b. The AAA Consumer Due Process Protocol, the AAA Consumer Related Disputes Supplementary Procedures, and the Commercial Arbitration Rules shall apply except as set forth herein.

- c. Claimants may submit a claim using a claim form similar or substantially in the form attached hereto as Appendix B ("Claim"). The Claim may be submitted through any regular means of communication including U.S. mail, facsimile and e-mail. Respondents shall establish and make readily available a dedicated email address and U.S. Mail address for receipt of such Claims.
- d. Within ten (10) days of receipt of any Claim, Respondents shall initiate consumer arbitration under the AAA Consumer-Related Disputes Supplementary Procedures by providing the AAA with a copy of the Claim. Any filing fees or other costs or fees due in connection with the filing of the Claim or adjudication of the Claim will be paid by Respondents. All arbitrator fees due in connection with the arbitration shall be paid by Respondents.
- e. Per the Consumer-Related Supplementary Proceedings, an arbitrator will be appointed by the AAA.
- f. Respondents shall submit their answer, if any, to the Claim within ten (10) days of the submission of the Claim to the AAA. If Respondents submit a counterclaim, the student shall have twenty (20) days to submit a written response to the AAA. For any Claim in the monetary amount of less than \$10,000, Respondents shall not request a hearing. If the student requests a hearing, a telephonic hearing (or, at the student's request, an in-person hearing) shall be held by the arbitrator.
- g. Per the Consumer-Related Supplementary Proceedings, the arbitrator will issue the award within 14 days of the closing of the hearing or the final documents submitted to the arbitrator.
- h. Any documents relating to the student's enrollment or attendance at Respondents' institution(s) that may reasonably be requested by the student, whether in connection with a filed Claim or in the student's preparation of a Claim, shall be promptly provided to the student by Respondent.
- i. Notwithstanding any written agreement or provision elsewhere to the contrary, the arbitrator may award monetary damages to the student and may compel specific injunctive relief relating solely to the student's enrollment, diploma, degree, or completion of the student's program; however, the arbitrator may not award exemplary, incidental, consequential, punitive damages or attorneys' fees.

- j. A student's submission of any Claim pursuant to the procedures set forth in this Paragraph 14 shall be deemed to comply with any otherwise applicable grievance or appeal procedures established by Respondents.

14. Respondents shall submit a compliance affidavit(s) to the Department attesting to its conformance with the Expedited Arbitration provisions set forth in this AVC. The compliance affidavit(s) shall at a minimum include a statement indicating the position and title of the affiant, a statement that the affiant is executing the affidavit on behalf of Keiser pursuant to this AVC, and statements outlining the steps taken in compliance with the Expedited Arbitration provisions set forth in this AVC. The compliance affidavit(s) shall be submitted to the Department on a quarterly basis until such time as all claims submitted through the Expedited Arbitration Process have been fully resolved. Respondents agree to maintain its records in support of the compliance affidavit(s) and the Expedited Arbitration Process and to make such records available to the Department within ten (10) business days of a written request.

15. Any claimant entering into expedited arbitration is required to agree in writing that the expedited arbitration is in lieu of pursuing relief in any other forum. Claimants participating in expedited arbitration must release the Respondents from any other liability for any actions related to their prior enrollment by executing a general release.

16. Claimants have until January 31, 2013 to file a claim under the expedited arbitration provisions of this AVC. The claims period will close and expedited arbitration will not be available after January 31, 2013.

IV. OTHER ACTIONS OR SETTLEMENTS

17. The parties agree and acknowledge that Attorneys General of other States and/or other state or federal government agencies may or may not be reviewing and investigating practices that are the subject of the present AVC. Should the Respondents resolve any such investigation or action with any other government entity that to Respondents' knowledge exists as of the AVC effective date on terms that are materially different than those set forth herein, a copy of the final resolution will be provided to the Department for review within 5 days of its effective date or execution by all parties, whichever comes first. If, after receipt and review of the final resolution, the Department determines in its sole discretion that the injunctive, financial and/or any other terms of such resolution relating to the subject matter herein are, taken as a whole, materially more favorable to consumers or the respective government entity or restrictive

on Respondents than those contained in this AVC, then the parties stipulate that this AVC will be amended to reflect all of such more favorable terms in place of the terms in this AVC. This provision will continue to apply to any additional future resolution of conflicts regarding the subject matter hereof by Respondents or any successor thereof for one year after the effective date of this AVC.

18. This AVC is not and shall not in any event be construed, deemed to be, and/or used as an admission or evidence of the validity of any claim that the Department has or could assert against Respondents, or an admission of any alleged wrongdoing or liability by Respondents in any civil, criminal or administrative court, administrative agency or other tribunal. Respondents' agreement to comply with the provisions of Section II is not an admission that Respondents ever engaged in any activity contrary to the requirements of Section II. Moreover, by entering into this AVC and agreeing to the terms and conditions provided herein, Respondents do not intend to waive and do not waive any defenses, counterclaims, or third party claims they may have in any other action or proceeding that has been or may be brought against them by any consumer arising from Respondents' advertising or recruitment of prospective students or from any student's attendance or enrollment at one or more of the Respondents' campuses. Further, nothing in this AVC, including this paragraph, shall be construed to limit or restrict Respondents' rights to use the AVC, or payments made hereunder, to assert and maintain the defenses of res judicata, collateral estoppel, payment compromise and settlement, accord and satisfaction, or any other legal or equitable defenses in any pending or future legal or administrative action or proceeding.

V. BUSINESS RECORDS

19. Respondents agree to retain documents and other information reasonably sufficient to establish compliance with the provisions herein for a period of two years following the effective date of this AVC, and shall provide reasonable access to such documents and information to the Department upon a written request by the Department which shall specify the categories of documents requested. Respondents shall not otherwise be required to revise their current record retention policies in order to comply with this AVC.

VI. FUTURE VIOLATIONS

20. Subject to Respondents' compliance with the terms of this AVC, the Department waives imposition of penalties that may otherwise be applicable under Florida Deceptive and

Unfair Trade Practices Act. If the Department believes that one or more of the Respondents has failed to satisfy any of the terms of this AVC, the Department will notify such Respondents of the specific term that Respondents have failed to satisfy and provide Respondents with a reasonable opportunity to cure. The Department agrees not to seek imposition of civil penalties or sanctions for said violation if the Department determines in its sole discretion that the violation of the AVC was not material or intentional and was remedied by Respondents in a prompt and reasonable manner.

21. In the event that upon appropriate motion or petition a court of competent jurisdiction makes a determination that a violation of this AVC has occurred, then upon notice, hearing or presentation of evidence substantiating a violation of this AVC, Respondents shall be liable for a Consent Judgment for any additional relief as may be determined by the Court which may include civil penalties of up to \$10,000 for each consumer harmed by such violation, in addition to all attorney's fees and costs associated with enforcing the terms of this AVC and obtaining said Consent Judgment. The amount of any civil penalties imposed will be determined based upon applicable law, including the materiality of the violation of this AVC.

22. Venue for any matter relating to or arising out of this AVC shall be in Leon, County, Florida, where the Attorney General maintains its official office pursuant to s. 16.01, Florida Statutes.

VII. CLOSURE OF INVESTIGATION

23. It is further agreed by the parties that upon the receipt of the agreed upon payments from Respondents, the Office of the Attorney General agrees to close its civil investigation into the activities of Respondents, as set forth above. The parties agree that this AVC has been entered into based on the truthfulness of the information provided by Respondents' representatives.

VIII. APPLICATION, EFFECT AND OTHER TERMS

24. Respondents shall make the applicable terms and conditions of this AVC known to the managers, members, officers, director employees, agents, independent contractors or anyone else acting for or on behalf of Respondents who are substantially affected by the terms of this AVC and are involved in the businesses, projects and activities of any of the Respondents. The obligations imposed by this paragraph are continuing in nature and shall apply to new officers, employees, agents, representatives or any other persons who become engaged in the

entity's business activities, including any future business activities in which any of the Respondents engage.

25. None of the Respondents shall effect any material change in the form of doing business, or the organizational identity of any of the existing business entities, or create any new business entities, for the purpose of avoiding the terms and conditions set forth in this AVC; any change in ownership or change in school name shall not be deemed to be covered by this provision and Respondents may close any school through an orderly teach-out consistent with applicable regulatory standards or change the name of any school.

26. In the event that Respondents contend, based upon changed or newly developed circumstances, that there is a need to modify this AVC in whole or in part, Respondents may request modification and/or termination of the terms of this AVC. Such circumstances shall include but not be limited to a showing by the Respondents that the terms of this AVC have placed it at a competitive disadvantage in the marketplace. The Department shall make a good faith evaluation of the then-existing circumstances referenced and, after collecting any information the Department deems necessary, make a prompt decision, but in no event more than ninety (90) days from the Department's receipt of a request for the same unless both parties agree in writing to a different schedule. At the request of either the Department or Respondents, the parties shall meet to discuss the provision(s) at issue and an appropriate manner in which to resolve any potential disagreement. The decision to modify and/or terminate this AVC shall rest within the sole discretion of the Attorney General.

27. Nothing in this AVC shall be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against Respondents or any other person or entity except as provided herein.

28. The original AVC, bearing the notarized signatures of the representatives of each Respondents and the above-described payment will be delivered to the attention of: Mark S. Hamilton, Bureau Chief, North Region, Economic Crimes Division, The Capitol, PL-01, Tallahassee, Florida 32399.

29. It is further agreed by the parties that the effective date of this AVC shall be the date of its execution and delivery by all the parties, including each of the parties reflected by the signature lines below. Acceptance by the Office of the Attorney General shall be established by the signature of the Associate Deputy Attorney General. The receipt by the Office of the

Attorney General of any monies pursuant to the AVC does not constitute acceptance by the Director of Economic Crimes, and any monies received shall be returned to Respondents if this AVC is not accepted and executed by the Associate Deputy Attorney General.

30. It is further agreed that future notice to any of the parties to this AVC may be made by notice sent certified mail to the addresses set forth below unless either party notifies the other by certified mail of another address to which notices should be provided.

31. It is further agreed that the parties jointly participated in the negotiation of the terms of this AVC. No provision of this AVC shall be construed for, or against, any party, on the grounds that one party had more control over establishing the terms of this AVC, than another.

32. This AVC shall be governed by, construed and enforced exclusively in accordance with and subject to the laws of the State of Florida, including, but not limited to its choice of law principles.

33. No waiver, modification or amendment of the terms of this AVC shall be valid or binding unless made in writing, signed by the parties and then only to the extent set forth in such written waiver, modification or amendment.

34. It is further agreed that facsimile or other electronic copies of signatures and notary seals may be accepted as original for the purposes of establishing the existence of this agreement.

35. This AVC may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.

In witness whereof, Respondents have caused this AVC to be executed by their authorized representatives in the county and state listed below, as of the date affixed thereon.

By my signature I hereby affirm that I am acting in my capacity and within my authority as corporate representative, as well as in my individual capacity, and that by my signature I am binding myself and the business to the terms and conditions of this AVC.

SIGNATURE PAGE FOLLOWS:

EVERGLADES COLLEGE, INC., d/b/a KEISER UNIVERSITY;

Signed: _____

Its: CHIEF OPERATING OFFICER

By: PETER CROCITTO

Dated: 10/25/12

STATE OF FLORIDA)ss
COUNTY OF Broward)ss

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, _____, appeared Peter Crocitto of Respondent, who produced Driver's License as identification. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 25 day of October, 2012.

Subscribed to before me this 25 day of October, 2012.

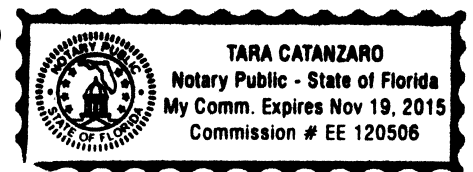
NOTARY PUBLIC

Tara M. Catanzaro

(print, type, or stamp commissioned Notary Public)

Personally known ☒ or Produced Identification _____ (check one)

Type of Identification Produced: Driver's License



EVERGLADES COLLEGE, INC., d/b/a EVERGLADES UNIVERSITY;

Signed: [Signature]
Its: CHIEF EXECUTIVE OFFICER
By: KRISTI MOLLIS

Dated: 10/25/2012


STATE OF FLORIDA)ss
COUNTY OF Broward)ss

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, _____, appeared Kristi Mollis of Respondent, who produced Drivers License as identification. She acknowledged before me that she executed the foregoing instrument for the purposes therein stated on the 25th day of October, 2012.

Subscribed to before me this 25th day of October, 2012.

NOTARY PUBLIC
[Signature]
(print, type, or stamp commissioned Notary Public)

Personally known _____ or Produced Identification ✓ (check one)
Type of Identification Produced: Drivers' License

 DIANE M. MCDEVITT
MY COMMISSION # DD 949464
EXPIRES: January 16, 2014
Bonded Thru Budget Notary Services

BAR EDUCATION, INC. D/B/A KEISER CAREER COLLEGE;

Signed: 

Its: PRESIDENT

By: GARY VONK

Dated: 10/25/12

STATE OF FLORIDA)ss
COUNTY OF Broward)ss

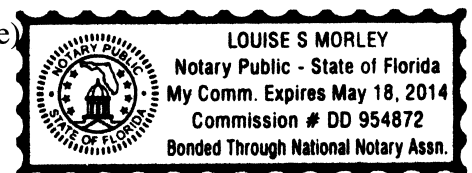
BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, _____, appeared Gary Vonk of Respondent, who produced Driver's License identification. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the 25 day of October, 2012.

Subscribed to before me this 25 day of October, 2012.

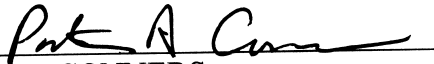
NOTARY PUBLIC


(print, type, or stamp commissioned Notary Public)


Personally known ☒ or Produced Identification _____ (check one)
Type of Identification Produced: Driver's License




OFFICE OF THE ATTORNEY GENERAL

By: 
PATRICIA A. CONNERS
Associate Deputy Attorney General
Department of Legal Affairs
OFFICE OF THE ATTORNEY GENERAL
The Capitol
Tallahassee, FL 32399-1050
(850) 245-0140

Dated: 10/29/12

By: 
RICHARD LAWSON
Director, Economic Crimes Division
Department of Legal Affairs
OFFICE OF THE ATTORNEY GENERAL
The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300

Dated: 10/27/12

By: 
MARK S. HAMILTON
Bureau Chief, North Region, Economic Crimes Division
Department of Legal Affairs
OFFICE OF THE ATTORNEY GENERAL
The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300

Dated: 10/26/12