

A F T E R N O O N S E S S I O N

[1:00 p.m.]

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2
3 **MR. MADZELAN:** We'll go ahead and get
4 started now with our first speaker this afternoon,
5 Jillian Estes; James, Hoyer, Newcomer, Smiljanich &
6 Yanchunis, if I have any or all of those right.

7 MS. ESTES: What's that?

8 **MR. MADZELAN:** If I have any or all of
9 those right of your firm name?

10 **MS. ESTES:** You got the point across.

11 **MR. MADZELAN:** Welcome.

12 **MS. ESTES:** Thank you. Thank you for the
13 opportunity to speak today. My name is Jillian
14 Estes and I'm a class action consumer advocacy
15 attorney with the law firm of James, Hoyer,
16 Newcomer, Smiljanich & Yanchunis. And yes, I gave
17 the stenographer a business card so she doesn't
18 have to spell those.

19 It's my honor to represent a group of
20 students who is perhaps the most important people
21 involved in the entire rulemaking process: the
22 students of the career colleges.

23 In the interest of full disclosure, I
24 currently represent a class of students alleging

1 deceptive trade practices and unsupervised internal
2 lending against Westwood College, a for-profit
3 career institution based out of Denver, Colorado.
4 As such, much of my investigation into the industry
5 has centered around Westwood. However, I'm
6 confident in my findings that the career college
7 community is a small one and the practices of one
8 school are often reflected very similarly in the
9 practices of the others.

10 First, I'd like to commend the Department
11 for its continuing efforts in opening these
12 hearings and the rulemaking process to the public.
13 I find few things more troubling than the remarks
14 made at the October 2008 hearings at which Harris
15 Miller, whom we heard from earlier, as President of
16 the Career College Association, requested that
17 negotiating over a certain topic be restricted only
18 to members of his association. With all due
19 respect to Mr. Miller, the implication that
20 allowing many parties to affect the regulations of
21 our government would be like "allowing non-pilots
22 to fly a plane" is so wholly illogical that it
23 would be laughable if not for the alarming insight
24 it shows into the CCA, and assumingly its member

1 schools, as to how they view the public, including
2 their own students.

3 Perhaps this is why students of career
4 colleges across the country have come to my firm in
5 droves, crying out for someone to hear their
6 concerns and to help them have a voice. The
7 desperate need for representation was not a
8 reaction I anticipated when I ventured into the
9 for-profit college arena, but the necessity of a
10 unified voice for students is remarkably apparent,
11 particularly given the unbalanced presentations at
12 today's proceedings.

13 In addition to student victims, I'm
14 contacted on a daily basis by former and current
15 employees of various colleges looking to tell me
16 about their school's practices. While my ethical
17 obligations prohibit discussion with current
18 employees of certain colleges, the simple fact that
19 they continue to reach out speaks volumes.

20 However, the former employees have no such
21 restrictions and they speak freely about the
22 practices they've witnessed and participated in.
23 While the career colleges may appeal to regulators,
24 they do not pay bonuses in exchange for

1 recruitment. The environment created at the
2 schools tells a very different story. Employees
3 repeatedly tell me stories of parties and gift
4 certificates, meals out, extra vacation time, and
5 even exotic trips to the Caribbean, all for
6 securing a certain number of student applications.
7 Not graduations, just applicants that stay past the
8 14-day window needed to secure Title IV funds.

9 Competitive team environments encourage
10 recruiters to think of potential students as points
11 to be scored rather than individuals that may or
12 may not be suited to a particular learning
13 environment. The safe harbors that have been
14 frequently discussed today are ironic in name and
15 implication. The idea of safety betrays the
16 priority of the administration that created them as
17 the regulations provide safety only to the schools
18 who use them to tow the line of propriety while
19 wholly disregarding the impact on students who are
20 subjected to those recruiting practices.

21 My first suggestion then is that the
22 Department completely reexamine the practical
23 impact of these dangerous harbors and remove or
24 narrowly define them to consider the elaborate

1 incentive programs as part of the bonus structure
2 that is weighed in considering Title IV compliance.

3 I apologize in advance for a slight
4 deviation in getting to my next suggestion for
5 Department regulation. I was educated at the
6 University of Florida, and for 10 years, I have
7 been a devoted fan of the Gator football program.
8 It's been a good 10 years for us. Any diehard fan
9 of college football will tell you that the single
10 most important indicator of continuous program
11 success is strong recruiting. And while Mr. Harris
12 attempted to compare career college recruiting to
13 his neighbor's water polo contacts, he left out the
14 major difference: Because of the critical nature
15 of recruitment, college coaches' recruiting
16 activities are heavily regulated by governing
17 bodies and any misstep is quickly and consistently
18 penalized. Simply, schools that violate the rules
19 of recruiting are forbidden from recruiting in
20 future years with the number of years tied to the
21 severity of the violation. The threat to future
22 seasons encourages accountability and
23 responsibility by all members of the team in
24 ensuring a proper recruiting period.

1 The financial success of a career college
2 is undeniably similar in that it depends nearly
3 entirely on the continued enrollment of new
4 students, but the current penalties for violations
5 fall far too short of providing a deterrent value.
6 Under the current system, schools that are tapped
7 with admissions violations are largely able to
8 dismiss the issue and continue on with business as
9 usual. By way of example, Westwood College
10 recently settled a federal lawsuit alleging a
11 variety of recruiting and state regulating issues.
12 The \$7 million settlement was a mere pittance to a
13 school that brought in over \$300 million last year.
14 At that rate, schools are likely to consider the
15 lawsuits or fines simply to be part of the cost of
16 doing business.

17 But if the Department instills a penalty
18 that would limit the amount of federal funds that
19 can be spent on recruiting, the schools will
20 recognize that there is no other option than to
21 correct any improper practices or risk losing the
22 life blood of their financial success. Restricting
23 the federal funds allowed to be used for
24 advertising would make the money into a shield used

1 to protect the students rather than a sword to
2 attack uninformed and unprepared potential
3 applicants.

4 Schools who are confident that their
5 advertisements and recruiters are relaying accurate
6 information should find no objection to this as it
7 serves only to raise the accountability industry-
8 wide. Schools will be forced to monitor the flow
9 of information more closely and to ensure that
10 potential students are not subjected to boiler room
11 recruitment tactics that blur the line between
12 truth and aspiration.

13 It is tremendously encouraging to see that
14 the Department of Education has focused its
15 regulatory sites on the critical issues of program
16 integrity. It is undeniable that these hearings
17 are dominated by industry representatives who
18 encourage loosening regulations and letting the
19 schools essentially regulate themselves. It is
20 equally undeniable that the schools should not be
21 the Department's primary concern. The students
22 need protection, they need regulation, and they
23 need to be heard.

24 As a consumer attorney, I'm committed to

1 representing the students whose lives have been
2 destroyed by insurmountable debt created as a
3 result of misinformation and straight-out lies
4 about program quality. There is a lot of job
5 security in that field these days. But the value
6 of constantly reacting pales in comparison to the
7 value of proactive regulatory measures, the two
8 suggestions I've introduced--a broad view of the
9 incentives included in Title IV compliance
10 evaluations and the penalties focused on limiting
11 the amount of Title IV dollars that can be used in
12 recruiting--will strongly encourage career
13 institutes to reevaluate their recruiting methods
14 to make students, rather than profit, their true
15 priority.

16 **MR. MADZELAN:** Thank you.

17 **MR. CUMMINGS:** David, I actually have a
18 question.

19 **MR. MADZELAN:** Jillian, question from
20 Glenn.

21 **MR. CUMMINGS:** Ms. Estes, could you
22 describe specifically where you see the--examples
23 of the infractions you see on enrollment recruiting
24 and the process of recruiting?

1 **MS. ESTES:** Certainly.

2 **MR. CUMMINGS:** What would be some
3 examples?

4 **MS. ESTES:** I don't have the copy with me,
5 but I will direct your attention to the lawsuit
6 we've recently filed against the college which
7 highlights a large variety of the recruiting
8 practices. A couple that we've seen in particular
9 have to do with faulty misinformation about the
10 accrediting process. We talked a lot today about
11 the difference in regional and national
12 accreditations and the way that representation is
13 made to the students. Oftentimes, as is
14 understandable, national accreditation sounds like
15 it would be the bigger and more commonly accepted
16 accrediting process. And, in fact, we've heard
17 recruiters as recently as December say on the phone
18 that, yes, any national accreditation will be
19 accepted at any other college just like if you went
20 to University of Michigan or University of Florida,
21 to a potential student on the phone.

22 In addition, we believe that the schools
23 violate a--and I'm speaking, I apologize, but
24 mostly about Westwood because that's where the bulk

1 of my information has come from--that the schools
2 represent their admissions counselors as having a
3 background in education and being qualified to make
4 enrollment decisions when, in fact, they're sales-
5 related jobs. Their job descriptions strictly
6 define sales positions. They have no background in
7 education. And I think one of the major concerns
8 we've seen, I can--I'll submit a copy of our
9 lawsuit, but as the exhibit to that, there has been
10 e-mails exchanged showing really the way that the
11 recruiters consider the students as simply targets.
12 In one example they use the method of a drive-by
13 shooting as an analogy for having recruiting
14 another student, sending around to the whole
15 company a picture of some gangsters shooting out a
16 window as an indication they've secured a second
17 application that morning. So just a variety of
18 ways that show that the students are being
19 disregarded and it's purely about the sale.

20 Any other questions?

21 **MR. CUMMINGS:** Thank you.

22 **MR. MADZELAN:** Thank you.

23 David Ureña, Community Legal Services of
24 Philadelphia.