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For-Profit College Company to Pay \$95.5 Million to Settle Claims of Illegal Recruiting, Consumer Fraud and Other Violations

The United States has reached a landmark global settlement with Education Management Corp. (EDMC), the second-largest for-profit education company in the country, the Department of Justice announced today. The \$95.5 million settlement resolves allegations that EDMC violated federal and state False Claims Act (FCA) provisions by falsely certifying that it was in compliance with Title IV of the Higher Education Act (HEA) and parallel state statutes.

“This historic resolution exemplifies the Justice Department’s deep commitment to protecting precious public resources; to defending American consumers; and to standing up for those who are vulnerable to mistreatment, abuse, and exploitation,” said Attorney General Loretta E. Lynch. “Operating essentially as a recruitment mill, EDMC’s actions were not only a violation of federal law but also a violation of the trust placed in them by their students - including veterans and working parents - all at taxpayer expense. In the days ahead, we will continue working with our invaluable partners at the U.S. Department of Education, through initiatives like the inter-agency task force on for-profit education, to ensure that our nation’s aspiring learners are finding and gaining access to educational opportunities that are right for them.”

The primary allegation was that EDMC unlawfully recruited students, in contravention of the HEA’s Incentive Compensation Ban (ICB), by running a high pressure boiler room where admissions personnel were paid based purely on the number of students they enrolled. In addition to resolving these and other FCA claims, the global settlement also encompasses an investigation by a consortium of state Attorneys General, of consumer-fraud allegations involving deceptive and misleading recruiting practices.

“Now more than ever, a college degree is the best path to the middle class, but that path has to be safe for students,” said U.S. Education Secretary Arne Duncan. “This settlement should be a warning to other career colleges out there: We will not stand by while you profit illegally off of students and taxpayers. The federal government will continue to work tirelessly with state attorneys general to ensure that all colleges follow the law.”

EDMC, which is headquartered in Pittsburgh, Pennsylvania, operates nationwide under four post-secondary school brands: the Art Institutes, South University, Argosy University and Brown-Mackie College. Student enrollment across EDMC’s school brands exceeds 100,000 students.

“Companies cannot enrich their corporate coffers at the expense of students seeking a quality education, or on the backs of taxpayers who are funding our critical financial aid programs,” said U.S. Attorney David J. Hickton of the Western District of Pennsylvania. “Today’s global settlement sends an unmistakable message to all for-profit education companies: the United States will aggressively ferret out fraud and protect innocent students and taxpayer dollars from this kind of egregious abuse.”

The settlement resolves four separate FCA lawsuits filed in federal court in Pittsburgh, Pennsylvania, and Nashville, Tennessee, under the *qui tam*, or whistleblower, provisions of the act, which permit private individuals to sue on behalf of the government for false claims and to share in any recovery.

The United States and five states intervened and actively litigated one of those four whistleblower lawsuits, *United States ex rel. Washington*, in the Western District of Pennsylvania. The United States’ complaint in intervention alleged

systemic violations of Title IV of the HEA's ICB and parallel state provisions, which prohibit schools from paying recruiters based on their success in securing enrollments. Specifically, the United States and the plaintiff states claimed that from 2003 to the present, EDMC falsely certified to the U.S. Department of Education and various state offices of higher education that it was complying with the ICB, in order to be eligible to receive the federal grant and loan dollars that compose the majority of EDMC's revenue. In reality, according to the United States' complaint in intervention, EDMC was running a high pressure sales business and paid its recruiters based only on the number of students they enrolled. As a result of these allegedly false certifications, EDMC improperly enriched itself for more than 10 years with federal and state grant and loan dollars. More broadly, EDMC's alleged conduct resulted in exactly the problems that Congress sought to curtail when it enacted the ICB: the enrollment of students in programs for which they lacked the necessary skills and qualifications, unsustainable student debt and default rates and schools' pursuit of profits ahead of a legitimate educational mission.

"Improper incentives to admissions recruiters result in harm to students and financial losses to the taxpayers," said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department's Civil Division. "This settlement shows that by partnering productively, the federal government and the states' Attorneys General can put a stop to this type of behavior."

The global settlement with EDMC also resolves three additional federal FCA lawsuits in which the government did not intervene, all involving various violations of Title IV of the HEA by EDMC.

Finally, the global settlement resolves a consumer fraud investigation by a consortium of 40 state Attorneys General, into EDMC's deceptive and misleading recruiting practices. The consumer fraud settlement requires EDMC to undertake various compliance obligations, including detailed disclosure obligations to students; prohibitions on deceptive or misleading recruiting practices and oversight by an administrator to ensure compliance.

"This civil enforcement action holds EDMC accountable for what we allege were unfair and deceptive recruitment and enrollment practices," said Iowa Attorney General Tom Miller. "EDMC's practices were unfair to our state's students, and they were also unfair to our nation's taxpayers who backed many of these federal student loans that were destined to fail. This is a rigorous agreement that not only provides some relief to a large number of former students through loan forgiveness, but helps ensure that the company will make substantial changes to its business practices for future students."

The global settlement amount of \$95.5 million reflects EDMC's financial condition and current ability to pay. The settlement proceeds will be shared among the United States, the co-plaintiff states and the whistleblowers and their counsel in the four FCA cases, and includes funds allocated for the compliance expenses of the state consumer fraud settlement, including the costs of the administrator and the acquisition and use of a sophisticated voice analytics system to record and analyze recruiters' calls with students. The United States will receive \$52.62 million from the settlement, and will pay \$11.3 million collectively to the relators in the four *qui tam* cases.

The FCA lawsuits were handled by Assistant U.S. Attorneys Michael A. Comber, Christy C. Wiegand, Paul E. Skirtich and Colin J. Callahan of the U.S. Attorney's Office of the Western District of Pennsylvania, Assistant U.S. Attorney Christopher Sabis of the U.S. Attorney's Office of the Middle District of Tennessee, and Trial Attorney Jay D. Majors of the Commercial Litigation Branch of the Civil Division of the Department of Justice, with assistance from the U.S. Department of Education's Office of General Counsel and Office of Inspector General.

The cases are captioned *United States ex rel. Washington et al. v. Education Management Corp., et al.*, Civ. No. 07-461 (WDPA); *United States ex rel. Sobek v. Education Management Corp., et al.*, Civ. No. 10-0131 (WDPA); *United States ex rel. Laukaitis et al. v. Education Management Corp., et al.*, Civ. No. 11-601 (WDPA); and *United States ex rel. Rainwater v. Education Management Corp., et al.*, Case No. 3:12-CV-01008 (MDTN). The claims resolved by the settlement are allegations only, and there has been no determination of liability.

Attachment(s):

[Download EDMC Complaint](#)

Topic(s):

False Claims Act