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September 17, 2015

**VIA HAND DELIVERY**

Civil Clerk's Office  
Suffolk Superior Court  
Three Pemberton Square, 12<sup>th</sup> Floor  
Boston, MA 02108

**Re: *Comm. v. The Career Institute, LLC; et al.,***  
**Suffolk Superior Court, Civil Action No. 13-04128H**

Dear Clerk of Court:

Please find for filing and docketing the Amended Complaint in the above-referenced action.

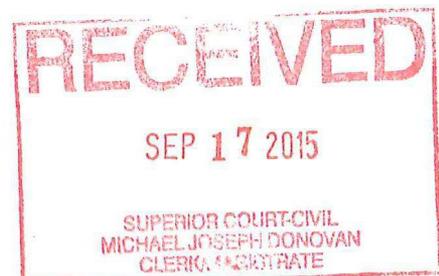
Please feel free to contact me if you have any questions.

Very truly yours,

  
Justin J. Lowe  
Assistant Attorney General  
Consumer Protection Division  
Office of the Attorney General

Enclosures

cc: Michael J. Duffy, Esq. (via First Class Mail)  
Bruce Raymond, Esq. (via hand delivery)  
Doreen M. Zankowski, Esq. (via hand delivery)



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. 2013-CV-4128H

COMMONWEALTH OF  
MASSACHUSETTS,

Plaintiff,

v.

THE CAREER INSTITUTE, LLC;  
ADVANCED CAREER TECHNOLOGIES,  
INC.; ABC TRAINING CENTER OF  
MARYLAND, INC.; ANDREE  
FONTAINE; ROBERT PAYNE; and  
MICHELLE MORIN SILVA,

Defendants.

**AMENDED COMPLAINT**

1. The Commonwealth of Massachusetts, by and through its Attorney General, Maura Healey, brings this enforcement action in the public interest against Defendants, The Career Institute, LLC; Advanced Career Technologies, Inc.; ABC Training Center of Maryland, Inc. (together, the “Defendant Companies”); Andree Fontaine; Robert Payne; and Michelle Morin Silva for violations of the Consumer Protection Act, G.L. c. 93A, § 2. The Defendants owned and operated a proprietary school, American Career Institute (the “School”), with campuses in Braintree, Cambridge, Framingham, Springfield, and Woburn, Massachusetts and Baltimore, Columbia, and Wheaton, Maryland. On January 9, 2013, the Defendant Companies and Defendants Fontaine and Payne abruptly and permanently closed all of the School campuses.

2. For years leading up to the closure, the School falsified documents and forged student signatures for the purpose of maintaining the school’s accreditation and licensing and in

order to continue to solicit and accept applications for enrollment and subsequently, student loan proceeds; solicited students with false representations as to completion and job placement statistics; enrolled students who did not meet minimum qualifications; and failed to provide students the education for which they incurred significant debts. The Defendant Companies and Defendants Andree Fontaine, Robert Payne, and Michelle Morin Silva, as owners and operators of the School, participated in, directed, supervised or tacitly approved the unfair or deceptive conduct, had authority to control the actions and practices of School employees engaged in the unfair or deceptive conduct, and knew or should have known about the unfair or deceptive conduct. Defendants unfairly pursued profit without regard to the School's supposed career training mission and left many students without realistic career opportunities and indebted beyond their means.

3. As a result of the Defendants' unfair or deceptive conduct, consumers suffered harm, including loss of many thousands of dollars each in payments made and/or indebtedness incurred to attend the School's training programs.

4. This Amended Complaint seeks restitution from the Defendants, including the return of tuition and fee payments collected from students by or on behalf of the School, civil penalties of \$5,000 per violation, and attorneys' fees and costs for investigating and prosecuting this action. The Amended Complaint also seeks injunctive relief to prevent additional harm arising from Defendants' unfair or deceptive acts or practices.

## **I. JURISDICTION AND VENUE**

5. The Attorney General is authorized to bring this action pursuant to G.L. c. 93A, § 4. The Attorney General has an interest in preventing unfair or deceptive acts or practices so as

to protect and promote the health and economic well-being of those who live and transact business in the Commonwealth.

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

7. This Court has jurisdiction over Defendants pursuant to G.L. c. 223A, §§ 3(a), (b) and (c). Pursuant to G.L. c. 223, § 5 and G.L. c. 93A, § 4, venue is proper in Suffolk County.

## **II. PARTIES**

8. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, Maura Healey, who brings this action in the public interest to remedy Defendants' unlawful conduct.

9. Defendant The Career Institute, LLC ("The Career Institute") is a foreign limited liability company. The Career Institute is in receivership pursuant to a U.S. District Court Order entered on February 13, 2013 in TD Bank, N.A v. Advanced Career Technologies, Inc., No. 13-10152-GAO (D. Mass. filed Feb. 13, 2013, Document 30) (O'Toole, J.). The Career Institute's principal place of business prior to being placed in receivership was 125 Newbury Street, Framingham, Massachusetts.

10. Defendant Advanced Career Technologies, Inc. ("Advanced") is a Massachusetts corporation. Advanced also is in receivership pursuant to the February 13, 2013 Order entered in TD Bank, N.A v. Advanced Career Technologies, Inc., No. 13-10152-GAO. Advanced's principal place of business prior to being placed in receivership was 125 Newbury Street, Framingham, Massachusetts.

11. Defendant ABC Training Center of Maryland, Inc. ("ABC") is a Maryland corporation. ABC also is in receivership pursuant to the February 13, 2013 Order entered in TD

Bank, N.A v. Advanced Career Technologies, Inc., No. 13-10152-GAO. ABC’s principal place of business prior to being placed in receivership was 125 Newbury Street, Framingham, Massachusetts. ABC did business at locations throughout Massachusetts.

12. The Career Institute owns 100% of both Advanced and ABC.

13. Defendant Andree Fontaine (“Fontaine”) is an individual residing at 71 Meadowbrook Road in Weston, Massachusetts.

14. Defendant Robert Payne (“Payne”) is an individual residing at 546 Randolph Avenue in Milton, Massachusetts.

15. Defendant Michelle Morin Silva (“Morin”) is an individual residing at 43 Smith Farm Road in Amston, Connecticut.

**III. STATEMENT OF FACTS**

A. Corporate Disregard.

16. The officers and directors of the Defendant Companies were the same individuals:

<b>Director</b>	<b>Affiliations with The Career Institute</b>	<b>Affiliations with ABC</b>	<b>Affiliations with Advanced</b>
Andree Fontaine	Member, Director, Chief Executive Officer, President, and Treasurer	Director, President, Chief Executive Officer	Sole Director, President and Treasurer
Robert Payne	Member, Director, Chief Operating Officer	Director, Chief Operating Officer (2009-June 2012), Chief Academic Officer and Chief Information Officer (June 2012 to present)	N/A
Geordie Mosbarger	Member, Director, Executive Vice President and Secretary	Director, Executive Vice President, Secretary	Secretary

17. Fontaine has a 52% ownership interest in The Career Institute which, as stated above, owns 100% of both Advanced and ABC. She also is the Chief Executive Officer, President and Treasurer of The Career Institute; the Chief Executive Officer and President of ABC; and the sole director, President and Treasurer of Advanced. Thus, by virtue of her ownership, board and executive roles, Fontaine was in a position to control all of the Defendant companies and operation of the School.

18. Payne has a 20% ownership interest in The Career Institute which, as stated above, owns 100% of both Advanced and ABC. Payne also is the Chief Operating Officer of The Career Institute. He was the Chief Operating Officer of ABC from 2009 to June of 2012, when he became the Chief Academic Officer and Chief Information Officer of ABC. Thus, by virtue of his ownership, board and executive roles, Payne was in a position to influence the Defendant Companies and the operation of the School.

19. Morin was the Corporate Compliance and Training Officer for Advanced and ABC and was employed by Advanced. On information and belief, Morin also has an ownership interest in The Career Institute and, therefore, in Advanced and ABC. By virtue of these roles, Morin was in a position to influence Advanced and ABC and the operation of the School.

20. On information and belief, The Career Institute operated its wholly-owned subsidiaries, Advanced and ABC, without regard for the corporate formalities of either entity.

For example:

- ABC kept no meetings or resolutions at any time while the School that it ran operated campuses in Massachusetts;
- The relationship between and among the three Defendant Companies was confusing, and there was a co-mingling of business activity and assets;

- On information and belief, large sums of money were transferred between and among The Career Institute, Advanced and ABC on a regular and frequent, if not daily, basis without any formal record of transactions;
- The three Defendant Companies shared office space at the same location at 125 Newbury Street in Framingham, Massachusetts, which also was the “corporate office” for the School and the location of the School’s Framingham campus, as well as the location where The Career Institute held its meetings. That space in Framingham, as well as the properties for each of the Massachusetts campuses, was leased by Advanced;
- On information and belief, employees of the School received paychecks from ABC but benefits from The Career Institute and/or Advanced;
- On information and belief, The Career Institute never, at any time, registered with the Massachusetts Secretary of State to conduct business in the Commonwealth; and
- The Career Institute ordered or directed the following: workforce reductions at ABC; work furloughs for Advanced employees; and lease negotiations for Advanced’s leases. The Career Institute also approved the School’s academic programs and directly oversaw the School’s accreditation and reaccreditation processes.

21. The Career Institute, Advanced and ABC collectively owned and operated the School, each with the substantial control and/or direction of the individual Defendants.

B. Requirements to Operate a For-Profit School in Massachusetts

22. To operate a for-profit school in the Commonwealth, the Defendant Companies needed a license from the Massachusetts Department of Elementary and Secondary Education and subsequently, the Massachusetts Department of Professional Licensure (collectively, “DPL”).

23. Additionally, for the School’s students to receive tuition funding from government sources, the Defendant Companies needed accreditation from an agency that the U.S. Department of Education determined was a reliable authority for assessing the quality of training offered at educational institutions.

24. Of the three Defendant Companies, only ABC was licensed by DPL and accredited.

25. The Accrediting Council for Continuing Education and Training (“ACCET”) was ABC’s accrediting agency. ABC was accredited by ACCET to operate the School as a for-profit school with five campuses in Massachusetts: 703 Granite Street, Braintree, Massachusetts; 186 Alewife Parkway, Cambridge, Massachusetts; 125 Newbury Street, Framingham, Massachusetts; 365 Caldwell Drive, Springfield, Massachusetts; and 10 State Street, Woburn, Massachusetts. ABC also was accredited by ACCET to operate three campuses in Maryland.

26. A license from DPL and accreditation from ACCET made ABC eligible to operate in the Commonwealth and to receive tuition payments from government sponsors and also enabled the School to establish credibility in the marketplace.

27. In its marketing materials, the School promoted that “All American Career Institute locations in both Maryland and Massachusetts qualify for federal financial aid.” The

School also used marketing materials to promote its DPL licensing and accreditation from ACCET, which provided the School with a cloak of credibility to prospective students.

28. For-profit schools in Massachusetts are governed by G.L. c. 255, § 13K, which specifies the amount of the refund that a for-profit school must make to a student in the event that the enrollment agreement is terminated; the amount varies based on the percentage of the school's program that the student completes prior to termination.

29. As a corollary to the statute, DPL required ABC to provide a guaranty on or about August 18, 2011 in order for the School to maintain its license to operate in Massachusetts. A true and correct copy of the guaranty (the "Guaranty") is attached hereto as Exhibit A. Fontaine executed the Guaranty as President of ABC. The Guaranty provides, in part, that ABC "absolutely and unconditionally guarantees to the Commonwealth of Massachusetts prompt payment of all money obligations of American Career Institute, [and] is liable in the first instance, in the event of its failure to perform its obligations to make tuition refunds to students as required by G.L. c. 255, § 13K."

30. On information and belief, ABC was not solvent at the time that the Guaranty was executed and/or lacked sufficient assets to provide refunds to all of its students in the event of the School's closure, such as what occurred in January of 2013.

31. The Career Institute and Advanced were aware that ABC was signing the Guaranty by virtue of Fontaine's roles in all three companies. On information and belief, Fontaine knew that ABC did not have the financial wherewithal to make payments of all refund obligations in the event that the School closed.

32. Additionally, on information and belief, ABC was not sufficiently capitalized to operate the School, which entered into contracts with over 7,800 Massachusetts students between 2010 and 2013.

C. ACCET and Title IV Requirements and School Policies

33. To represent to consumers that the School was accredited, eligible to receive federal loans, and licensed to operate in the Commonwealth, the Defendants were required to meet certain minimum criteria. The School's policies, which were represented to students, largely mimic corollary requirements of ACCET and/or Title IV.

34. ACCET's Completion and Placement Policy required the School to maintain a 67% completion rate for each program and at each campus. To complete a training program, ACCET required that a student maintain 80% attendance and a minimum 2.0 grade point average ("GPA"). Accordingly, the School's enrollment agreements state that a minimum program attendance rate of 80% is required to complete a program.

35. Maintaining minimum attendance and GPA were also necessary to enable the School to receive government tuition proceeds. Once a student's loan was approved by the U.S. Department of Education, the School determined when to request a loan payment or "draw down" on the loan, and the School (not the student) received the loan funds by wire transfer. Title IV permitted loan draw-downs only if a student maintained satisfactory academic performance, i.e., 80% attendance and a 2.0 GPA. The School policies similarly required students to maintain 80% attendance and a 2.0 GPA, also referred to as satisfactory academic progress or "SAP."

36. Students who were not achieving SAP were required by ACCET, Title IV and the School policies to be placed on probation, and any student who still was not achieving SAP at

the conclusion of his or her first probation period was required to be administratively withdrawn from school.

37. In addition to requiring that a student be withdrawn if he failed to achieve satisfactory attendance and GPA, ACCET and Title IV requirements and the School policy also required the School to withdraw any student who was not on an approved leave of absence and was absent for fourteen (14) days.

38. ACCET's requirements regarding leaves of absence, and the School's policy which mirrored ACCET requirements, required that the student (not the School) request the leave of absence, that it be for a defined period of time with a scheduled return date, and that a leave of absence form be executed by the student prior to starting the leave of absence. Additionally, Title IV and the School policy required that a student who exceeded 180 days of leaves of absence in a 12-month period be withdrawn.

39. ACCET also required the School to report data regarding the number of students who completed each of the School's programs, as well as the number of graduates who obtained employment related to their field of study (referred to as "placements").

40. To be in compliance with ACCET and School policies, each program was required to have a 67% completion rate and a 70% placement rate – meaning that at least 67% of the students who enrolled in the program completed the program (within 150% of the scheduled time), and of those who graduated, at least 70% were employed in a qualified position related to the student's field of study.

#### D. For-Profit Schools

41. For-profit schools, depending on their accreditation, may award bachelors or associate degrees and/or certificates. The School offered only certificate programs. Many for-

profit schools are owned and operated by businesses and businesspersons with the principal purpose to produce returns for owners and shareholders.

42. The business model of for-profit schools typically focuses on recruiting students from low or lower income families with modest financial resources and who are eligible for government funds in the form of grants and loans.

43. For-profit education is expensive. For example, the total cost of the School's "Digital Multimedia Design Program" was over \$23,040 for a one-year certificate program. The total program cost includes tuition (\$19,990), registration fee (\$50), books (\$1,225), lab fee (\$1,275), "elite fee" (\$275), uniforms (\$75), and exam fee (\$150).

44. About 96% of students attending for-profit institutions incur debt to pay for their training. *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, United States Senate, Health, Education, Labor and Pensions Committee, p. 6 (July 30, 2012). For-profit schools enroll about 12% of all students seeking post-high school training, but take nearly 25% of all federal educational loans and grants. *Id.* Taxpayer investment in for-profit schools was \$32 billion in 2009-2010. *Id.* at 2.

45. In 2009, for-profit schools spent 42.1% of revenue on profit and marketing. *Id.* at 5. By contrast, in 2009, for-profit schools spent only 17.2% of revenue on instruction. *Id.*

46. On information and belief, the School similarly spent a large percentage of its revenues on marketing and profits and only a small percentage on instruction.

47. Students at for-profit schools rarely realize a benefit commensurate with the debt they incur. Many do not graduate, and many students who do graduate are unable to obtain employment in their field of study. *Id.* at 7.

48. About 50% of students at for-profit schools default on their loans. Nearly 25% of students at for-profit schools default on their loans within three years of graduation.

49. In fiscal year 2012, the School collected over \$30 million in government funding, an amount equal to 89% of its revenue, pursuant to Title IV of the Higher Education Act of 1965 (“Title IV”). *Proprietary School Revenue Percentages Report for Financial Statements with Fiscal years Ending Dates Between 7/1/2011 – 6/30/2012*, United States Department of Education, available at <http://studentaid.ed.gov/about/data-center/school/proprietary>. Title IV requires that eligible institutions obtain at least ten percent of revenue from non-Title IV sources. Additionally, the School collected tuition on behalf of veterans pursuant to the Post-9/11 GI Bill and other veterans programs. Access to federal grants and loans was critical to the School’s profits.

E. Records Maintained by the School

50. DPL and ACCET both required the School to maintain enrollment agreements for all students. The enrollment agreements were contracts between students and the School that included student information, costs, method of payment, program information, and refund policies. Importantly, the enrollment agreements also included the student’s start date and expected completion date.

51. The School recorded a student’s attendance and grades in its SABA database and tracked whether a student was achieving satisfactory academic progress (“SAP”) – 80% attendance and a 2.0 GPA – on documents the School referred to as campus “scorecards.”

52. The School documented student leaves of absence on campus scorecards, as well as on Leave of Absence forms.

53. Students who either were required to be administratively withdrawn from school or who elected to withdraw were referred to at the School as “drops.” The School documented student drops on “Drop Forms” and/or “Drop Request Forms” (collectively, “Drop Forms”).

54. Both leaves of absence and drops also were recorded on Student Status Change Forms.

55. The School reported its completion and placement data for each program, by campus, on ACCET Form 28.1s. The School was required to provide to ACCET a Form 28.1 for each program at each of its campuses at least annually and on occasions more frequently as required by ACCET.

56. The placements on Form 28.1s were documented in Employment Verification Forms and their back-up documents, Employer Surveys and employer communications.

F. The School Falsified Numerous Documents and Records to Appear More Successful than it was and to Induce Students to Enroll and Pay Tuition and Fees.

57. As discussed herein, the School engaged in widespread falsification of documents that ACCET used to accredit the School and that formed the basis for the School’s representations to students, prospective students, state and federal regulatory authorities, and the public. The School altered, forged, fabricated and/or falsified attendance records, student grades, Leave of Absence Forms, Drop Forms, Student Status Change Forms, Employment Verification Forms, Employer Surveys and communications, completion and placement data forms, enrollment records and other documents provided to ACCET for the purpose of maintaining the School’s ACCET accreditation and, thus, its DPL license and its eligibility to receive student loan money. These falsified records made it appear to prospective students that the School was more successful than it was in training students for careers and thus, induced students to enroll at the School.

58. On information and belief, Defendants Fontaine and Payne created and fostered a culture at the School in which record falsification was common, and profitability and the appearance of compliance – and not the students – were what mattered most to the School and its management.

59. The intentional falsification of records by some School employees, and the blatant disregard for the veracity of records by others, occurred at each campus by individuals in different departments and with respect to a variety of documents. The principal common theme appears to be the employees' belief that such conduct was expected by Fontaine and/or Payne.

#### Attendance Records and Grades

60. The School employees routinely falsified attendance records and grades to make it appear that students were achieving SAP.

61. As a matter of policy, classroom instructors were responsible for recording student attendance. Instructors entered attendance into the School's electronic SABA database. According to the School's written policy, a student who arrived more than 15 minutes late, or left more than one hour early, could not receive a full day's credit. But the School recorded that students were present for a full day of class, when in fact, the students had only briefly appeared in class or had not appeared at all.

62. With respect to grades, some instructors gave students copies of tests in advance to ensure high grades. Other instructors allowed or even encouraged cheating during exams or in-class projects that were graded.

63. Instructors routinely inflated grades and attendance to push students through to completion. Some instructors gave A's to almost everyone and/or gave A's to any students who

showed up for most of the classes. Students were occasionally pleasantly surprised to see that their GPAs and attendance rates were significantly higher than they expected or had earned.

64. When attendance and grades posted on SABA by instructors did not meet minimum GPA and attendance requirements, other School employees, including members of the School's Education Department and at least one Campus President, altered (inflated) the attendance and grades in SABA and/or directed the alterations so that students appeared to achieve SAP and, therefore, would not have to be dropped.

65. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

Drops and Leave of Absence Forms  
and "Missing in Action" ("MIA") Students

66. Drops caused the School to lose money. For any student who was dropped, Title IV, M.G.L. c. 255 § 13K, and ACCET policies all required that the School refund a portion of any advanced and unearned tuition and fees. For example, M.G.L. c. 255 § 13K requires that at least 75% of tuition be refunded if the student withdraws within the first quarter of the program. Therefore, the number of student drops could have a significant impact on the amount of revenues that the School was entitled to keep.

67. Defendants Fontaine and Payne strongly discouraged student drops and pressured campus employees to keep drops to a very low number regardless of ACCET and Title IV requirements for continued enrollment. Fontaine publicly reprimanded the School employees at campuses that reported a large number of drops in any particular month.

68. Attendance was a significant problem at the School, and many students often fell far short of the 80% minimum. Each campus had an employee in the Education Department whose responsibility was to call any student who was absent, and if the initial call was

unsuccessful in reaching the student, to make repeated phone calls, and send emails, Facebook messages and communications in any media to attempt to coax the student to return to class the next day.

69. The barrage of communications was unsuccessful in prompting the return of many students, however, and there were numerous students who simply stopped attending and were unresponsive to the School's communications for more than fourteen (14) days. These students had gone "missing" or were "MIA" in the parlance of School employees.

70. While ACCET, Title IV and the School's own policies required that the School drop these MIA students – who had been absent for a great deal longer than fourteen (14) days in most cases – that is not what generally occurred.

71. The School often continued to record these MIA students as "active" students for weeks or months after the fourteen (14) days had passed. The School employees occasionally would enter attendance in the SABA database to make it appear that the student was still in school.

72. The School often put these MIA students on fictional leaves of absence. The MIA students were not actually on leaves of absence and had not requested time off, but rather than drop them, the School employees falsified Leave of Absence forms and Student Status Change forms to make it appear that the students were in communication with the School and were planning to return. The School employees forged student signatures and created fictional bases for the students' leave of absence requests.

73. Fictional leaves of absence served two purposes: 1) the School held onto the tuition and fees received from or on behalf of the students that would have to be refunded if the School dropped the students; and 2) the School did not have to report the students as drops in

completion data and percentages and, therefore, avoided threats to accreditation and also improved the school's appearance to prospective students.

74. Often, the expected return date on the falsified Leave of Absence form was left blank in the hope that the student could be talked into returning to the School at some point. If the School employees managed to coax a student back to the School, the student was asked to sign a back-dated Leave of Absence form to paper over the extended period when the student was not attending school.

75. For most MIA students who never returned, the student eventually was dropped. The Drop Forms and Student Status Change Forms typically stated as a reason that the student never returned from the leave of absence.

76. By manipulating the fictional leave of absence dates, the School also could manipulate the drop date so that the campus did not have too many drops in one month and/or so that the drop was less damaging to the School's completion data.

77. The School also used Leave of Absence Forms to paper over extended periods when students were not missing but were not in classes for fourteen (14) days because the School was unable to provide classes. These leaves of absence were not actually leaves of absence at all, but rather, were gaps in students' schedules that were unrequested and unwanted by the students. These gaps were papered over by the School as leaves of absence to conceal the School's failure to comply with ACCET and Title IV requirements and School policies.

78. For example, the School would cancel an entire course if the School decided that it was not cost-effective to proceed with the student's paid-for-curriculum until the School could find and enroll additional students and/or if the School did not have an instructor to teach the

course. This cancellation might result in a gap of weeks or even a month or more in the student's schedule.

79. However, the School was not permitted under ACCET policies to require students to take time off between classes. Nevertheless, forced leaves of absence due to impermissible administrative scheduling gaps were frequent and were concealed from ACCET by falsified Leave of Absence forms.

80. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

#### Completion, Placement and Employment Verification

81. The School falsified both the completion and placement data in Form 28.1s.

82. For example, the 2011 Form 28.1 for the PC Networking Design with Security program in Woburn represented that 100% of the students in that program in 2011 completed the program. This representation was false. On information and belief, no more than 20% of the students completed the program.

83. Similarly, the 2011 Form 28.1 for Dental Assisting program in Braintree represented that 80% of the graduates of the program in 2011 obtained employment in a qualified position related to their field of study. This representation also was false. On information and belief, fewer than 40% of the graduates in that program obtained employment in a qualified placement.

84. The School manipulated completion percentages by excluding from the data many students who were drops. The School also included among its "completers" students who had not actually completed their programs.

85. Similarly, the School manipulated placement percentages by excluding from the data some of the students who were graduates but who had not obtained employment.

86. The School also padded its placement numbers by hiring graduates as teaching assistants or tutors for a time period long enough to satisfy ACCET placement requirements and then terminated their employment. When ACCET inquired about this practice, the School concealed from ACCET some of the graduates who were “placed” in positions at the School.

87. Additionally, the placement percentages often were based in large part on other records that the School had falsified – Employment Verification Forms and their back-up documents, Employer Surveys and employer communications.

88. The School falsified Employer Verification Forms purporting to confirm student placements with companies that did not exist or at which the students had never worked; falsified job titles so that the positions appeared to qualify as placements; and convinced or tricked students to sign forms stating that the students were self-employed when the School employees knew that to be false.

89. The School also falsified Employer Surveys and employer communications to provide back-up documentation for the falsified Employment Verification Forms.

90. Fontaine, Payne and Morin were aware of the potential falsification of Employer Verification Forms after a Campus President completed a written disciplinary report on or about December 16, 2011 regarding his Career Services Manager. The Campus President questioned the veracity of the Employment Verification Forms and met with Fontaine and Payne. The Defendants took little or no action to stop the falsification of Employment Verification Forms by the Career Services Manager, who continued to falsify the records.

91. Morin, the School's Compliance and Training Officer, reviewed and verified the completion and placement data in the Form 28.1s. For example, she signed the ACCET Annual Completion and Placement Reporting in which she "attests to the accuracy and completeness" of the attached falsified Form 28.1s. A true and correct copy of the executed Document 12.c is attached hereto as Exhibit B. On information and belief, the statement that she signed was not true.

92. Falsified completion and placement percentages and data reported to ACCET in the Form 28.1s were not just the basis for the School's continued accreditation. These same misrepresentations were used to solicit prospective students, were placed on the School's website, and on information and belief, were misrepresented to the U.S. Department of Education in the form of required "Gainful Employment Disclosures."

93. Additionally, during the admissions process, each student was provided with and was required to execute a "Program Disclosure Information" sheet, which purportedly disclosed the percentage of students who had successfully completed the program during the previous fiscal year, as well as the percentage of those graduates who were successfully placed in their field of study. On information and belief, these disclosures also were based on the falsified completion and placement data in the Form 28.1s.

94. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

#### 2012 ACCET Audits

95. To verify compliance with accreditation requirements, ACCET auditors visited the School's campuses in early 2012.

96. Fontaine and Payne were present and participated in the audit of several of the School's campuses in January and February 2012. Both also participated in preparations for the audits.

97. During the audit preparation sessions that took place during the weeks preceding each campus's ACCET audit, the School employees under the supervision of Payne and sometimes Fontaine, were particularly busy falsifying records that did not comply with ACCET requirements.

98. The School used the original enrollment agreement to substantiate tuition billing. However, to ensure that enrollment agreements would correspond to student attendance records and pass ACCET scrutiny, the School employees created a second, forged, enrollment agreement, which would correspond to the student's actual start date.

99. In the days and weeks preceding the 2012 audits, numerous enrollment agreements were destroyed or forged. For example, a former employee testified that the School destroyed original enrollment agreements executed by students and created new enrollment agreements with different start dates to create the appearance that students were progressing toward completion of their programs.

100. In preparation for the audits, the School also falsified Leave of Absence forms, Student Status Change Forms, Drop Forms, and Employee Verification Forms.

101. According to one employee's testimony, in the days preceding the ACCET reaccreditation audit, the School employees "were there around the clock changing documents." Civil Investigative Demand, Transcript of Sworn Testimony of Former Employee, 66:13.

102. During the audit preparation sessions, Payne usually was present and in charge. Fontaine also was present during some of the audit preparation. Both Payne and Fontaine were in the room at times when the School employees were falsifying records.

103. The School also concealed from ACCET certain student files, including files that could not be sufficiently doctored to make it appear that all of the paperwork was in compliance and/or the files of those students who were improperly excluded from the Form 28.1 completion and placement data.

104. The School also was required to provide to ACCET for each audit lists of active students, students who were on leaves of absence, students who were drops during the previous year, and students who were graduates the previous year. The lists were used by ACCET to review samplings of student files.

105. A former campus president testified that Payne falsified the student lists provided to ACCET in connection with the audit in order to conceal certain student files from the auditors. He further testified that Payne told him that ACCET would only pull files from the lists that the School gave the auditors and not any of the files of students that Payne had deleted from the lists.

106. Defendants knew, or should have known, that the conduct of the School's agents and employees was unfair or deceptive in violation of G.L. c. 93A, §2.

G. The School Used Aggressive Sales Tactics and Made Misrepresentations to Prospective Students, including Representations Based on Falsified Data Used for Accreditation.

107. The School used aggressive sales tactics and false or misleading representations to consumers and prospective students to induce enrollment at the School.

108. The School admissions representatives were essentially sales persons and were evaluated primarily on the number of sales calls and appointments, enrollments and the number of students who actually started classes.

109. The admissions representatives, at Fontaine's direction, were trained to focus on a prospective student's "pain points" to persuade the consumer to enroll at the School. Admissions representatives also were trained to create in the student's mind a false sense of urgency to encourage the consumer to enroll and start classes immediately, often within twenty-four hours.

110. Admissions representatives enrolled students in programs for which the students lacked the basic program prerequisites.

111. Additionally, when students were dropped, the School immediately initiated efforts to re-enroll the same, dropped students who already had demonstrated an inability to satisfy attendance and/or grade requirements.

112. Some prospective students were told at meetings with admissions representatives that employment was "guaranteed."

113. The admissions representatives also misrepresented to prospective students completion and placement data verbally and in writing in the form of Program Disclosure Information sheets.

114. Additionally, the School misrepresented its employer contacts and placement history in industries related to the School's programs.

115. For example, the School posted at campuses and provided to students lengthy and impressive lists of "Employers Who Have Hired ACI Graduates." On information and belief,

many of the hundreds of employers identified on these lists never hired a graduate from the School.

116. Defendants knew, or should have known, that the conduct of the School's agents and employees was unfair or deceptive in violation of G.L. c. 93A, §2.

H. The School Enrolled Unqualified Students and Failed to Make Material Disclosures to Prospective Students.

117. In order for students to be admitted and receive loans for tuition, ACCET and government sponsors required that students have a high school diploma, a General Equivalency Diploma ("GED"), or pass an Ability to Benefit or "ATB" test. Per accreditation standards, a student was not permitted to enroll without proof that the student had met one of those minimum education requirements. Accordingly, the School's policies also required a high school diploma, a GED or a passing score on an Ability to Benefit test prior to enrollment.

118. To maximize profit, Fontaine pressured her employees to enroll as many students as possible. As one former employee testified, "[i]f the student had a heartbeat and they could sign their signature and get approved for a loan, they were accepted students.... Everyone was accepted if they could get a loan....It was just get them in and get them in quickly." Civil Investigative Demand, Transcript of Sworn Testimony of Former Employee, at 155:5.

119. As part of its profit-maximization approach, the School enrolled and collected tuition payments from students who did not have a high school diploma, a GED, or a passing score on an Ability to Benefit test.

120. The School offered tutoring to students if those students committed to enrolling at the School once they received their GED. Defendants required students to sign enrollment agreements with a start date anticipating that the student would pass the GED exam before the start date. Yet many students did not pass the GED exam.

121. By way of example, “TR” had dropped out of school in eighth grade and was not academically qualified or prepared to enroll at the School. TR did not have high school diploma, a GED, or a passing score on an Ability to Benefit test. Nevertheless, contrary to the School’s policy, Defendants allowed TR to begin classes, which allowed Defendants to charge and collect tuition on behalf of TR.

122. Numerous other students at the School failed to meet the School’s minimum education requirements at the time that they started classes and then took and failed the Ability to Benefit test while they were in school; some of these students failed the Ability to Benefit test repeatedly while they were in school. On information and belief, the School received tuition from or on behalf of many of these students who never satisfied minimum education requirements for enrollment and failed to refund the tuition.

123. For many of these students, English was not their primary language and they lacked the verbal and/or written language skills to participate in the School programs. The School did not offer programs in languages other than English, nor did it provide English classes. Nevertheless, the School enrolled these students and collected tuition and fees from them knowing that significant language barriers would likely prevent the students from succeeding.

124. In addition to meeting minimum academic requirements, for programs of study designed to provide job opportunities in the medical and the PC networking and security fields, it was essential that the student did not have a criminal background. A criminal background could disqualify a student from an externship and/or employment in those fields.

125. The School failed to disclose to prospective students of medical, dental, and PC networking and security programs that their criminal history could disqualify them from employment in their field of study.

126. Defendants knew or should that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

I. Once Enrolled, Students at the School Did Not Get What They Paid For.

127. In their marketing materials, Defendants promoted the School's "comprehensive career training programs" to prospective students as providing the "best possible education." For some programs, the School represented a 100% job placement rate. In fact, the School failed to provide students with the tools and the training they needed to obtain the promised employment in the field, and many graduates were unable to obtain employment.

The School Failed to Provide  
Course Materials for Which Students Paid

128. The School failed to provide numerous students with the books and/or software for which the students paid and which were needed to learn the course subject matter.

129. Students enrolled in the School's digital media program, for example, paid in advance approximately \$1,250 for the software, usually financing the cost of software together with their tuition and other fees. Yet for many students, the School failed to provide the necessary software, provided it only after the course was substantially complete, or provided an obsolete version of the software that did not correspond to the represented curriculum or what was being taught by the instructor. The School failed to provide this essential course material to students, leaving students unable to participate in class or complete assignments.

130. The School also did not have enough software licenses for the students in its computer-related programs.

131. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

The School Pushed Students Through  
to Externship Without Required Training

132. To graduate from the School's allied health programs, which were the School's most popular programs, students were required to complete 160 hour externship programs. For the allied health programs, if a student did not complete his or her externship, the School may be required to refund a portion of the student's tuition. The School "pushed" students through their coursework to externship. Without necessary course materials and without attending required classes, students often were unprepared for externship.

133. The School falsified grades and attendance records to make students appear eligible for externships. Faculty members passed students who had not accomplished requisite classroom goals. The School changed or inflated grades to improve students' grade point average. When those students transitioned to a work place externship, they did not have the skills that externship employers required.

134. Defendants knew or should have known that students at the School were unprepared for externships, because, among other reasons, externship employers frequently complained about students' unpreparedness.

The School Lacked Sufficient Externships  
for the Number of Students that The School Enrolled

135. An externship was a required component of the Medical Assisting, Medical Coding and Billing, and Dental Assisting programs at the School. A student could not complete his or her program and receive a certificate unless the student completed an externship.

136. The School represented to students that it would provide them with externships.

137. The School did not have nearly enough externships to provide to all of the students that the School enrolled in the programs that required externships.

138. Many students had to wait several weeks or even months for an available externship. Therefore, rather than wait for the School to find an externship, some students found their own externships with little or no assistance from the School.

139. Because ACCET requirements would not permit these gaps in student schedules between the completion of classes and the start of externships, the School used fictional leaves of absence to paper over the scheduling gaps caused by the School's inability to provide the mandated externships.

140. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

The School Used Unauthorized and  
Unqualified Instructors to Teach Courses

141. Instructors at for-profit schools in Massachusetts must be approved by DPL in advance of teaching any classes.

142. Instructors must satisfy minimum requirements to be approved by DPL, including that the instructor have work experience related to the course.

143. The School utilized instructors who were neither approved by DPL nor qualified under DPL requirements to teach the specific courses.

144. The School instructors included recent graduates who had little or no experience in the field of study.

145. When an employee of the School complained to ACCET about this practice and named as an example a recent graduate who was teaching dental assisting classes in the Springfield campus, Fontaine on behalf of the School falsely represented to ACCET that the recent graduate had not taught any classes.

146. The School even used active students as instructors from time to time.

147. Defendants knew or should have known that this conduct was unfair or deceptive in violation of G.L. c. 93A, §2.

The School Abruptly Closed  
Without Refunding Student Tuition

148. In November of 2012, the Defendants knew that they were in default on their loan agreement and in arrears on rent. Defendants knew or should have known that the School had insufficient cash flow and was operating at a loss, yet the Defendants continued to enroll new students and collect tuition and fees until the day that the school closed.

149. Defendants failed to disclose to students and prospective students the School's precarious financial position and the likelihood that the School would not be able to satisfy the terms of the students' enrollment agreements.

150. On January 9, 2013, Fontaine announced that the School was shutting down immediately. Students on the verge of completing their programs were locked out of class without warning. Approximately 1,400 Massachusetts students were affected by the closure. No student received a refund from the Defendants after the School closed, and the Defendants made no provision for transitioning students to programs that would allow them to complete their training.

151. Notwithstanding the purported Guaranty, Defendants failed to refund tuition money and fees owed to students pursuant to the School's refund policy, G.L. c. 255, §13K, and the students' enrollment agreements. In many cases, students lost thousands of dollars and/or were left owing significant debts to government and private lenders for education services that the School failed to provide.

#### IV. CAUSES OF ACTION

**Count One**  
**Violations of G.L. c. 93A, §2**  
**(The Career Institute, Advanced and ABC)**

152. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

153. The Defendant Companies engaged in unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2. Such unfair acts or practices include, without limitation, the following:

- a. The Defendant Companies falsified student records, including records which formed the basis for false or misleading representations to consumers and the public in violation of G.L. c. 93A, § 2;
- b. The Defendant Companies inflated completion and placement statistics reflecting the number of students who completed coursework and/or were placed in qualified positions in their field of study and made false or misleading representations to consumers about the School's completion and placement data and history in violation of G.L. c. 93A, §2;
- c. The Defendant Companies made false or misleading representations to solicit consumers who were not academically qualified to enroll in the program and these students then made large tuition payments and/or incurred substantial debt to pay for the programs, when they had virtually no ability to complete the training program and/or obtain employment in the field of study in violation of G.L. c. 93A, § 2;

- d. When soliciting students for enrollment, the Defendant Companies failed to disclose to consumers, before they made large tuition payments and/or incurred debt to participate in allied health or PC networking and security programs, that a criminal history could disqualify a student from employment in their field of study in violation of G.L. c. 93A, § 2;
- e. The Defendant Companies failed to provide essential course materials to students who had paid for those materials, leaving students unable to fully participate in training programs for which they had paid and/or incurred debt, in violation of G.L. c. 93A, § 2;
- f. The Defendant Companies made false or misleading representations to consumers about the quality of instruction and the availability of externships in violation of G.L. c. 93A, § 2;
- g. The Defendant Companies continued to enroll new students and collect tuition and fees when the Defendants Companies knew or should have known that they were insolvent, were in default on their loan agreement and in arrears on rent, and/or otherwise knew or should have known that they would not be able to fulfill the terms of their contracts with students; and
- h. The Defendant Companies failed to refund students' tuition and fees, contrary to Massachusetts G.L. c. 255, § 13K and the terms of student enrollment agreements, when they abruptly closed in violation of G.L. c. 93A, § 2.

154. The Defendant Companies' unfair or deceptive conduct was material and had the tendency to deceive potential and existing consumers and to induce enrollment, continued enrollment, and the payment by or behalf of students of tuition and fees.

155. The Defendant Companies knew, or should have known, that their misrepresentations were false or misleading, in violation of G.L. c. 93A, § 2.

156. Given that the three Defendant Companies operated as one business and collectively ran the School, failed to observe corporate formalities, and all were controlled by the same individuals, the corporate form of each of the Defendant Companies should be disregarded, and each of the Defendant Companies should be liable for the actions of the other Defendant Companies.

**Count Two**  
**Violations of 940 CMR 3.10 and 3.16 and G.L. c. 93A, § 2**  
**(The Career Institute, Advanced and ABC)**

157. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

158. The Defendant Companies engaged in unfair or deceptive acts or practices in violation of 940 CMR 3.10 and 3.16. Such unfair or deceptive acts or practices include, without limitation, the following:

- a. The Defendant Companies made false or deceptive statements or representations, or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students or the public, by way of advertising or otherwise, concerning their activities in attempting to enroll students, or concerning the character, nature, quality, value, or scope of any course of instruction or educational service offered, the School's influence in obtaining employment for its students, and in other material respects, in violation of 940 CMR 3.10(1) and 3.16(1) and (2) and G.L. c. 93A, § 2;

- b. The Defendant Companies made false or deceptive statements or representations, or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students, or the public regarding opportunities in vocations and fields of study as a result of the completion of given courses of instruction or educational service, in violation of 940 CMR 3.10(3) and 3.16(1) and (2) and G.L. c. 93A, § 2;
- c. The Defendant Companies used language in marketing and in the enrollment process that had the tendency or capacity to mislead or deceive students, prospective students, or the public, and failed to disclose facts that may have influenced the decision to enroll in violation of 940 CMR 3.10(16) and 3.16(1) and (2) and G.L. c. 93A, § 2; and
- d. The Defendant Companies induced the enrollment and retention of students for courses of instruction or training for jobs and positions for which the Defendant Companies knew, or had reason to know, the student was unfit by reason of educational, or other material disqualification, in violation of 940 CMR 3.10(17) and 3.16(1) and (2) and G.L. c. 93A, § 2.

159. The Defendant Companies' false or misleading statements, and facts that they failed to disclose to consumers, prospective students, and others were material and deceived, or had the tendency to deceive or mislead, prospective and existing students.

160. The Defendant Companies knew or should have known that their misrepresentations and omissions were false or misleading, or had the tendency to deceive or mislead consumers, in violation of 940 CMR 3.10 and 3.16 and G.L. c. 93A, § 2.

161. Given that the three Defendant Companies operated as one business and collectively ran the School, failed to observe corporate formalities, and all were controlled by the same individuals, the corporate form of each of the Defendant Companies should be disregarded, and each of the Defendant Companies should be liable for the actions of the other Defendant Companies.

**Count Three**  
**Violation of Guaranty**  
**(The Career Institute, Advanced and ABC)**

162. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

163. For good and valuable consideration, on August 18, 2011, Fontaine, as President of ABC, executed and delivered to the Commonwealth a guaranty of payment (the “Guaranty”) of the obligations of the School. A true and accurate copy of the Guaranty is attached hereto as Exhibit A.

164. The Guaranty provides, in part, that ABC “absolutely and unconditionally guarantees to the Commonwealth of Massachusetts prompt payment of all money obligations of American Career Institute, is liable in the first instance, in the event of its failure to perform its obligations to make tuition refunds to students as required by G.L. c. 255, § 13K.”

165. Under the terms of the Guaranty, the Commonwealth is entitled to enforce the Guaranty for the benefit of students.

166. By virtue of the foregoing, ABC is liable to the Commonwealth under the Guaranty in the aggregate sum of all tuition refunds owed to the School students.

167. Given that the three Defendant Companies operated as one business and collectively ran the School, failed to observe corporate formalities, and all were controlled by the same individuals, the corporate form of each of the Defendant Companies should be disregarded, and each of the Defendant Companies should be liable for the actions of the other Defendant Companies.

**Count Four**  
**Violations of G.L. c. 93A, §2 with respect to Guaranty**  
**(The Career Institute, Advanced, ABC and Fontaine)**

168. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

169. Fontaine's execution of the Guaranty on behalf of ABC on or about August 18, 2011 allowed the School to maintain its license and to continue to operate its five campuses in Massachusetts. The Guaranty also allowed the School to continue to represent to consumers that the School was licensed by the Commonwealth.

170. At the time of execution of the Guaranty, ABC and Fontaine knew or should have known that ABC was insolvent and/or lacked sufficient assets to satisfy the Guaranty in the event of school closure.

171. ABC's and Fontaine's unfair or deceptive conduct was predicated on their false promise that ABC could and would satisfy student refunds.

172. As a result of ABC's and Fontaine's unfair or deceptive conduct, consumers suffered harm in the form of tuition and fees paid, but not refunded, for an education that was promised but not delivered.

173. Given that the three Defendant Companies operated as one business and collectively ran the School, failed to observe corporate formalities, and all were controlled by the same individuals, the corporate form of each of the Defendant Companies should be disregarded, and each of the Defendant Companies should be liable for the actions of the other Defendant Companies.

174. Fontaine should be individually liable for the actions and financial obligations of ABC because she signed the Guaranty knowing that ABC did not have the financial wherewithal to satisfy the refunds required under the Guaranty in the event of the School's closure.

**Count Five**  
**Violations of G.L. c. 93A, §2**  
**(Fontaine)**

175. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

176. Fontaine was a director and the President of each of the three Defendant Companies and also was Chief Executive Officer of The Career Institute and ABC.

177. Fontaine was directly or indirectly involved in and/or supervised nearly all aspects of the School and had the authority to control the acts and practices of all School employees.

178. Fontaine held frequent calls with employees and departments at each campus in which detailed information regarding enrollments, drops, leaves of absence, attendance, completions and/or placements was discussed.

179. For example, one of the regular conference calls that occurred as often as every week at each campus was the "Scorecard Meeting." Fontaine generally received and reviewed

the relevant campus's scorecard for that week in advance of the call and discussed the contents in detail with campus employees on the call.

180. Scorecards often contained information from which Fontaine knew or should have known the following:

- a. MIA Students who had not attended school for weeks or more had not been dropped;
- b. Students were on fictional leaves of absence; and
- c. The completion and placement data reported to ACCET, to prospective students, and to the public was false.

181. Most of the School's communications with and representations to ACCET were from Fontaine or were under her supervision. On information and belief, Fontaine made misrepresentations to ACCET regarding enrollment, completion and placement data in order to maintain the School's accreditation and continue to collect student tuition.

182. Further, on at least one occasion, Fontaine was made aware of the falsification of Employment Verification forms and related records and did little or nothing to stop the unfair or deceptive conduct.

183. Fontaine engaged in unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2 including, without limitation, the following:

- a. Fontaine directed, supervised, and/or tacitly approved the falsification of student records, including records which formed the basis for false or misleading representations to consumers and the public in violation of G.L. c. 93A, § 2;

- b. Fontaine participated in, directed, supervised, and/or tacitly approved the making of false or misleading statements to consumers and the public regarding the School's student completion and placement data and history in violation of G.L. c. 93A, § 2;
- c. Fontaine directed, supervised, and/or tacitly approved the enrollment of consumers who were not academically qualified to enroll at the School in violation of G.L. c. 93A, § 2; and
- d. Fontaine created and fostered a culture at the School that encouraged falsification of records to make it appear that student outcomes were better than they were and that a very high percentage of the School's students were graduating and obtaining employment in their fields of study.

184. Fontaine's unfair or deceptive conduct was material and had the tendency to deceive potential and existing consumers and to induce enrollment, continued enrollment, and the payment by or behalf of students of tuition and fees.

185. Fontaine knew or should have known that her conduct was unfair or deceptive in violation of G.L. c. 93A, § 2 and the regulations promulgated thereunder, including 940 CMR 3.10 and 3.16.

**Count Six**  
**Violations of G.L. c. 93A, §2**  
**(Payne)**

186. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

187. Defendant Payne was a director and Chief Operating Officer of The Career Institute, the Chief Operating Officer of ABC from 2009 to June of 2012, and the Chief Academic Officer and Chief Information Officer of ABC.

188. Payne was directly or indirectly involved in and/or supervised nearly all aspects of the School and had the authority to control the acts and practices of all School employees.

189. Payne held frequent calls with employees and departments at each campus in which detailed information regarding enrollments, drops, leaves of absence, attendance, completions and/or placements was discussed.

190. For example, one of the regular conference calls that occurred as often as every week at each campus was the “Scorecard Meeting.” Payne generally received and reviewed the relevant campus’s scorecard for that week in advance of the call and discussed the contents in detail with campus employees on the call.

191. Scorecards often contained information from which Payne knew or should have known the following:

- a. MIA Students who had not attended school for weeks or more had not been dropped;
- b. Students were on fictional leaves of absence; and
- c. The completion and placement data reported to ACCET, to prospective students, and to the public was false.

192. Further, on at least one occasion, Payne was made aware of the falsification of Employment Verification forms and related records and did little or nothing to stop the unfair or deceptive conduct.

193. Payne engaged in unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2 including, without limitation, the following:

- a. Payne directed, supervised, and/or tacitly approved the falsification of student records, including records which formed the basis for false or misleading representations to consumers and the public in violation of G.L. c. 93A, § 2;
- b. Payne participated in, directed, supervised, and/or tacitly approved the making of false or misleading statements to consumers and the public regarding the School's student completion and placement data and history in violation of G.L. c. 93A, § 2;
- c. Payne directed, supervised, and/or tacitly approved the enrollment of consumers who were not academically qualified to enroll at the School in violation of G.L. c. 93A, § 2; and
- d. Payne created and fostered a culture at the School that encouraged falsification of records to make it appear that student outcomes were better than they were and that a very high percentage of the School's students were graduating and obtaining employment in their fields of study.

194. Payne's unfair or deceptive conduct was material and had the tendency to deceive potential and existing consumers and to induce enrollment, continued enrollment, and the payment by or behalf of students of tuition and fees.

195. Payne knew or should have known that his conduct was unfair or deceptive in violation of G.L. c. 93A, § 2 and the regulations promulgated thereunder, including 940 CMR 3.10 and 3.16.

**Count Seven**  
**Violations of G.L. c. 93A, §2**  
**(Morin)**

196. The Commonwealth repeats and realleges the foregoing paragraphs of the Amended Complaint and incorporates them herein by reference.

197. Defendant Morin was the School's Corporate Compliance and Training Officer.

198. Morin engaged in unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2 including, without limitation, the following:

- a. Morin supervised, and/or tacitly approved the falsification of student records, including records which formed the basis for false or misleading representations to consumers and the public in violation of G.L. c. 93A, § 2; and
- b. Morin participated in, directed, supervised, and/or tacitly approved the making of false or misleading statements consumers and the public regarding the School's student completion and placement data and history in violation of G.L. c. 93A, § 2.

199. Morin's unfair or deceptive conduct was material and had the tendency to deceive potential and existing consumers and to induce enrollment, continued enrollment, and the payment by or behalf of students of tuition and fees.

200. Morin knew or should have known that her conduct was unfair or deceptive in violation of G.L. c. 93A, § 2 and the regulations promulgated thereunder, including 940 CMR 3.10 and 3.16.

**WHEREFORE**, the Commonwealth requests that this Court:

1. Enter judgment in favor of the Commonwealth and against the Defendants as follows:
  - a. On Count I, enter judgment against each of the Defendant Companies, jointly and severally;
  - b. On Count II, enter judgment against each of the Defendant Companies, jointly and severally;
  - c. On Count III, enter judgment against each of the Defendant Companies, jointly and severally;
  - d. On Count IV, enter judgment against Fontaine and each of the Defendant Companies, jointly and severally;
  - e. On Count V, enter judgment against Fontaine;
  - f. On Count VI, enter judgment against Payne; and
  - g. On Count VII, enter judgment against Morin;
2. Issue a Permanent Injunction enjoining Defendants and their officers, agents, servants, employees, successors and assigns, whether acting individually or in active concert or participation with Defendants, through any corporation, trust or other device (including, without limitation, through any entities affiliated with or created by Defendants), from directly or indirectly owning, operating, managing, or advising a career or vocational training school in the Commonwealth of Massachusetts;
3. Order Defendants, jointly and severally, to make full and complete restitution to:
  - a. All former students who enrolled at the School based on false or misleading representations, including representations predicated on falsified records;

- b. All former students who enrolled at the School based on false or misleading representations about the student's qualifications to enroll in, complete, and/or benefit from the School training programs;
  - c. All former students who enrolled at the School based on false or misleading representations about the character, nature, quality, value, or scope of any course of instruction or educational service offered, or the School's influence in obtaining employment for its students;
  - d. All former students who enrolled at the School as a result of the Defendants' failure to disclose facts that may have influenced the decision to enroll;
  - e. All former students who enrolled at the School based on false or misleading representations relating to job placement or the School's completion and placement data or history;
  - f. All former students who paid for, or incurred debt to obtain, course materials that Defendants failed to provide;
  - g. All former students who paid for, or incurred debt to obtain, training that failed to prepare the student for the promised employment;
  - h. All former students who were unable to complete training programs due to the School's January 2013 closure; and
  - i. All other former students who incurred damages as a result of the Defendants' unfair or deceptive conduct;
4. Order Defendants, jointly and severally, to pay the Commonwealth civil penalties of \$5,000 for each violation of G.L. c. 93A, § 2;

5. Order Defendants, jointly and severally, to pay the Commonwealth's costs for its investigation and prosecution of this case, including reasonable attorneys' fees, pursuant to G.L. c. 93A, § 4;
6. Disregard the corporate forms of Advanced and ABC to provide equitable relief as the Court deems appropriate; and
7. Grant such other relief as this Court deems just and proper.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS

MAURA HEALEY  
ATTORNEY GENERAL



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Date: September 17, 2015

Fax:

Jan 10 2013 04:33PM P003/030

II

GUARANTY

For valuable consideration the undersigned hereby absolutely and unconditionally guarantees to the Commonwealth of Massachusetts prompt payment of all money obligations of American Career Institute, is liable in the first instance, in the event of its failure to perform its obligations to make tuition refunds to students as required by G.L. c. 255, § 13 K. Such monies when received by the Commonwealth of Massachusetts are to be held for the account of, and for the benefit of, students entitled to tuition refunds.

The undersigned further agrees that this guaranty shall apply to and bind the undersigned on any ultimate balance which shall remain unpaid following payment on any bond or other form of indemnification up to an amount necessary to make tuition refunds to students according to provisions of G.L. c. 255, § 13 K.

This guaranty is a guaranty of payment, and if there is more than one signatory, the liability shall be joint and several, and suits for enforcement of this guaranty may be brought successively against one or more of the undersigned and the Commonwealth may settle with any one of the undersigned without releasing or impairing the rights of the undersigned among themselves, including the right of contribution or subrogation.

This guaranty shall be construed according to the laws of the Commonwealth of Massachusetts.

Signed, sealed and delivered this 18<sup>th</sup> day of AUGUST, 2011

ABC Training Center of Maryland, Inc.  
d/b/a American Career Institute

Andree L. Fontaine  
By: ANDREE FONTAINE  
Its' President

Signed in the presence of:

[Signature]

ACCET DOCUMENT 12.c  
 Date Developed: April 1990  
 Date Revised: August 2010/December 2010  
 Pages: 1 of 2  
 Pertinent to: Vocational Institutions

## ANNUAL COMPLETION AND PLACEMENT REPORTING

**Rationale:** This annual reporting, applicable to all vocational institutions, is intended as an extension of Document 12.b – Annual Report and Enrollment Statistics, requested of all ACCET accredited institutions, in order to provide a review for ongoing compliance with ACCET standards, policies and procedures.

**Policy Requirements:** The Annual Completion and Placement Statistics Reporting is due May 1<sup>st</sup> of each calendar year, and the data required for this documentation is compatible with Document 28 – Completion and Placement Policy and the electronic reporting requirements of Document 28.1 Definitions – Completion and Placement Statistics – Definitions and Explanations.

### CALENDAR YEAR 2010

1. Name of Institution American Career Institute
2. City/State/Zip Wheaton, MD 20902
3. Who is the designated Contact Person responsible for this report?

Name Michelle Morin Title Corporate Compliance and Training Officer

Telephone 508-620-0152 Fax 508-875-7285 Email MMorin@acinow.edu

### A. COMPLETION/PLACEMENT DATA

Completion and Placement data serve as measurable outcomes utilized by the institution and ACCET to assess, document, and validate the quality of the education and training services provided by the institution. Consequently, the institution will answer the following questions to verify that policy and procedures are followed:

1. Is Document 28.1(s) utilized as an internal tracking tool?  Yes  No If Yes, how often is it reviewed?  Monthly  Quarterly  Other If No, explain
2. Is complete information maintained for each placement, including name, completion date, program name, employment start date, company information, job title/description, and documentation of ineligibility status, if applicable?  Yes  No If No, explain
3. Provide a brief description of the procedures for validating training-related placement in the following categories:

**General** Once a student is placed and employed for 30 days, the career services department will contact the employer to verify the graduate's employment. Documentation will include the student's name, completion date, program name and employer information, including the start date of employment, job title, name, address, telephone number and email address of the employer.

**Self-Employment** Upon graduation, graduates seeking self employment in their field of training

must sign a statement acknowledging that they seek self employment in a field related to their training and that such employment meets their vocational and monetary objectives. This documentation is maintained in the student's file.

**Temporary/Part-Time Employment** Upon completion of a program and placement on a part time basis or with a temporary placement agency, placement verification will be conducted by the career services department to confirm the graduate has worked a minimum 30 days within a period of three consecutive months. Graduates must also sign an acknowledgement that such employment fulfills their vocational and monetary objectives. Documentation will be maintained in the student file.

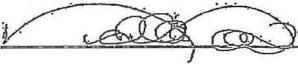
**Continuing Employment** Graduates intending to continue employment at the same company must verify that they benefited from their training as evidenced by a promotion, increase in responsibility and / or a salary increase.

4. **Completion Benchmark 67%:** Is the completion rate(s) for any of the programs offered below the established benchmark?  Yes  No If yes, identify those programs and rates (by site) and provide a narrative description of the institution's internal assessment of the data.
5. **Placement Benchmark 70%:** Is the placement rate(s) for any of the programs offered below the established benchmark?  Yes  No If yes, identify those programs and rates (by site) and provide a narrative description of the institution's internal assessment of the data.
6. **Maximum Waiver Allowance 15%:** Is the percentage of waivers for any program above the 15% allowed?  Yes  No If yes, identify the factors which contributed to the high percentage.

**B. SUPPLEMENTAL DATA**

1. Document 28.1 - Completion and Placement Statistics for calendar year of report (by program and by site) to be completed and submitted to ACCET using instructions and guidelines provided by ACCET staff. As a reminder, a separate Document 28.1 must be submitted for each program offered at each site.
2. A completed ACCET Document 29 - Catalog Checklist and Guidelines. Annotate the last page of Document 29 with any recent policy revisions that have been made, specifically those involving, but not limited to, refunds, attendance, and transfer of credit.

The undersigned, authorized representative of this institution hereby attests to the accuracy and completeness of this document and all attached materials.

Authorized Signature  Title Corporate Compliance and Training Officer

Date 4/29/2011