

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO.

RECEIVED

DEC 24 2019

SUPERIOR COURT-CIVIL
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

IN THE MATTER OF BAY STATE)
COLLEGE, INC.)
_____)

ASSURANCE OF DISCONTINUANCE
PURSUANT TO M.G.L. CHAPTER 93A, § 5

I. INTRODUCTION

1. The Commonwealth of Massachusetts (“Commonwealth”), through the Office of Attorney General Maura Healey (“AGO”) and Ambow Education Holding Ltd. d/b/a Bay State College, Inc. (“Bay State”), enter into this Assurance of Discontinuance (“AOD”) pursuant to M.G.L. c. 93A, § 5.

2. Bay State is a private for-profit postsecondary educational institution with its principal place of business at 31 St. James Avenue, Boston, MA 02116. Bay State offers Certificate, Associate, and Bachelor’s degree programs in various fields, such as Criminal Justice, Fashion Merchandising, Entertainment Management, and Information Technology among others.

3. Pursuant to M.G.L. c. 93A, § 6, the AGO conducted an investigation of Bay State’s compliance with 940 C.M.R. 31.00 *et seq.* (the “Investigation”). Based on the Investigation, the AGO alleges that during the period from March 2016 through November 8, 2017 (the “Investigation Period”), Bay State failed to consistently comply with 940 C.M.R. 31.00 *et seq.* Specifically, the AGO alleges that:

- i. Bay State failed fully to comply with 940 C.M.R. 31.05, which requires that Bay State make the disclosures listed in 940 C.M.R. 31.05 to consumers and prospective students, clearly and conspicuously,¹ at least

¹ Section 31.03 of 940 C.M.R. defines “clearly and conspicuously” to mean: “(a) contained on a school’s website in a manner that is easy to locate and access; and (b) provided to and signed and dated by the consumer or prospective

72 hours prior to entering into an enrollment agreement with a consumer or a prospective student. The AGO alleges that during the Investigation Period, Bay State failed at various times to hand out the 940 C.M.R. 31.05 disclosures to its prospective students or affirm its prospective students' receipt of the 940 C.M.R. 31.05 disclosures by means of a student's signature;

- ii. Bay State failed fully to comply with 940 C.M.R. 31.06(9), which prohibits Bay State from initiating communication with a prospective student, prior to enrollment, via telephone (either voice or data technology), in person, via text messaging, or by recorded audio message, in excess of two such communications in each seven-day period. The AGO alleges that during the Investigation Period, Bay State in some instances contacted its prospective students more frequently than is allowed under 940 C.M.R. 31.06(9); and
- iii. At various times during the Investigation Period, Bay State failed to provide prospective students accurate job placement rates calculated in accordance with 940 C.M.R. 31.03 and 31.05(4)(b).

4. This AOD does not constitute an admission of wrongdoing by Bay State of any fact alleged by the AGO or non-compliance with any state or federal law, rule, or regulation.

5. Bay State College was sold to a new owner on November 9, 2017. All of the AGO's allegations in this AOD concern Bay State's actions prior to November 9, 2017. The AGO does not allege that Bay State violated M.G.L. c. 93A or any other law, rule or regulation after November 8, 2017.

6. The parties are nevertheless desirous of resolving these matters in the interests of advancing or supporting educational opportunities for deserving Massachusetts residents, and accordingly, the AGO and Bay State both voluntarily enter into this AOD.

7. This AOD is made without any trial or adjudication of any issue of fact or law.

II. TERMS OF THIS ASSURANCE

8. Bay State agrees to pay to the AGO the sum of seven hundred thousand dollars

student, with copies to be provided both to the consumer or prospective student (and if the prospective student is younger than 18 years old, to the prospective student's parent or guardian) and retained by the school."

(\$700,000) which shall be distributed by the AGO to or on behalf of students of Bay State at the sole discretion of the AGO. No part of this payment is or shall be considered a penalty or fine. Bay State shall make this payment within sixty (60) days of the entry of this AOD or pursuant to an alternative payment schedule agreed to by Bay State and the AGO.

9. Bay State also agrees to release the obligations of certain students in an amount no greater than \$406,930 due to Bay State that remain outstanding; these students may be identified in the discretion of the AGO, but are limited to certain Bay State students who: (i) enrolled in 2016 or 2017 and (ii) either withdrew or were academically dismissed as of the date of this AOD or graduated from the programs for which the AGO in its discretion believes Bay State did not provide accurate job placement rates calculated in accordance with 940 C.M.R. 31.03 and 31.05(4)(b).

10. Bay State shall fully comply with 940 C.M.R. 31.00 *et seq.*

11. Bay State will cooperate with the AGO during the implementation of this AOD and will provide all information not subject to applicable privileges that is reasonably requested by the AGO during the implementation of and related to this AOD. Within ninety (90) days of the entry of this AOD, Bay State will provide to the AGO: (i) a final report identifying the students subject to paragraph 9 above, (ii) for each student identified, the amount of debt released, and (iii) copies of the notices sent to relevant Bay State students that inform the students of the extent of the release of their obligations.

12. The acceptance of this AOD by the AGO does not constitute acceptance or approval by the AGO of any of Bay State's assertions of fact or past practices, and Bay State will make no representation to that effect.

13. The AOD may be modified or supplemented only by a written document signed by both parties.

14. This AOD shall be binding upon Bay State, its officers, directors, employees, agents, parents, subsidiaries, affiliates, subdivisions, successors, and assigns.

15. This AOD and its provisions shall be effective on the date that it is filed in Suffolk Superior Court.

16. Any payments under this AOD shall be made by check payable to the Office of the Attorney General, delivered by hand or certified mail to Katherine Hurley, Insurance & Financial Services Division, Office of the Attorney General, One Ashburton Place, 18th Floor, Boston, MA


02108.

17. This AOD resolves potential civil liability of Bay State for alleged violations of M.G.L. c. 93A and common law claims concerning unfair and deceptive trade practices, including but not limited to fraud, negligent misrepresentation, and unjust enrichment, related to the Investigation.

18. Except to enforce its terms, no part of this AOD shall be construed or admitted into evidence as an admission of liability by Bay State, its officers, directors, employees, predecessors, successors, insurers, reinsurers, or assigns, in any other proceeding, and Bay State makes no admission of wrongdoing.

19. By signing below, the signatories represent that they are authorized to sign this document on behalf of their respective parties and the parties agree to comply with their respective undertakings contained in this AOD.


BAY STATE COLLEGE, INC.

By: 
Mark DeFusco
Chief Executive Officer/President
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Dated:

22 Dec. 2019

**COMMONWEALTH OF MASSACHUSETTS
MAURA HEALEY ATTORNEY GENERAL**

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Dated: December 24, 2019