COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.
19-2782A

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

THE BOSTON LANGUAGE INSTITUTE, INC. and SIRI KARM SINGH KHALSA,

Defendants.

COMPLAINT

I. INTRODUCTION

1. The Commonwealth of Massachusetts, by and through its Attorney General, Maura Healey, brings this enforcement action in the public interest pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4. The Commonwealth alleges that The Boston Language Institute, Inc. (the "Institute") and its president, Siri Karm Singh Khalsa ("Mr. Singh Khalsa"), failed to refund enrolled students, continued to enroll new students, failed to disclose the Institute's dire financial situation, and guaranteed refunds to students even as it and Mr. Singh Khalsa knew that the Institute had no ability to continue future operations or pay refunds. The Commonwealth alleges that these actions constitute unfair and deceptive acts under the Massachusetts Consumer Protection Act.

2. The Commonwealth seeks restitution and other relief for Massachusetts students harmed by the Institute and Mr. Singh Khalsa's conduct. The Commonwealth also seeks civil

penalties of $5,000 per violation together with the costs of investigating and prosecuting this action, including reasonable attorneys' fees.

II. JURISDICTION AND VENUE

3. The Attorney General is authorized to bring this action pursuant to G. L. c. 93A, § 4.

4. This Court has jurisdiction over the Defendants pursuant to G. L. c. 223A, § 3.

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

6. Venue is proper in Suffolk County pursuant to G. L. c. 223, § 5, and G. L. c. 93A, § 4.

7. On August 22, 2019, the Attorney General's Office sent Defendants letters in accordance with the provisions of G.L. c. 93A, § 4, paragraph 2.

III. THE PARTIES

8. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, who brings this action in the public interest.

9. Defendant The Boston Language Institute, Inc., is a Massachusetts corporation, headquartered at 648 Beacon Street, Boston, Massachusetts, 02215.

10. Defendant Siri Karm Singh Khalsa is the President of The Boston Language Institute, Inc.; he resides at 368 Village Street, Millis, Massachusetts, 02054.

11. Whenever in this Complaint reference is made to any act, deed, or transaction of any corporation, the reference means that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while

they were actively engaged in the management, direction, control, or transaction of its business affairs.

IV. STATEMENT OF FACTS

A. The Boston Language Institute

12. President Siri Karm Singh Khalsa ran the Institute, which provided language instruction through courses and tutoring. The Institute had three teaching programs: Foreign Language, English as a Second Language, and Teaching English as a Foreign Language. The Institute also had a translation program, which did not enroll students. A program coordinator oversaw each of the programs. Depending on the needs of each program, the program coordinators enrolled students, coordinated teacher schedules, or assigned translators. Effectively, the program coordinators handled the day-to-day operations for each program. At times, the Institute could have over two hundred students enrolled.

13. Through its Foreign Language programs, the Institute taught more than a dozen languages to hundreds of students. For each language, there were five different levels of instruction with classes in each level lasting four to eight weeks. On average BLI's foreign language classes cost approximately $400. In addition to the direct payments to the Institute, students often needed to purchase other supplies such as books. Those costs could add more than a hundred dollars to class costs.

14. Through its English as a Second Language program, the Institute provided a range of classes to help non-native English speakers improve their English-language skills. The price for classes ranged from $187 for classes lasting up to a few weeks to more than a thousand dollars for multi-week English immersion classes.

15. Through its Teaching English as a Foreign Language program ("TEFL"), the Institute offered a certificate program for students wishing to teach English in the United States and abroad. The TEFL program lasted four weeks for the full-time program or twelve weeks for the part-time program. The Institute charged its TEFL students $2,465 each for enrollment in this certificate program.

16. Up until the date that it closed, the Institute guaranteed students a full refund of tuition if they were not completely satisfied and dropped the class through the first week of the program.[1] The Institute promised to process and provide the refunds within thirty days.

17. On a monthly basis, the Institute's operating costs often exceeded $120,000. The Institute's payroll and benefits for staff and payments to foreign language translators were approximately $100,000 per month. The Institute's rent was approximately $16,500 per month. The Institute also budgeted $8,000 to $10,000 in refunds per month.

1. <u>Mr. Singh Khalsa Maintains Tight Control over the Institute's Finances</u>

18. The Institute's finances, for all of its programs, were handled exclusively by Mr. Singh Khalsa and its controller, Gurumeet Singh Khalsa.

19. The Institute finances were inexorably bound to Mr. Singh Khalsa's. The Institute paid Mr. Singh Khalsa at least $130,000 in annual salary. In addition to this salary, the Institute paid many of Mr. Singh Khalsa's personal expenses. Instead of having a corporate credit card, the Institute used Mr. Singh Khalsa's personal card to pay for business expenses.

---

[1] The exact drop dates to qualify for the guarantee ranged from three days for immersion programs to the first week of a six-week program.

Mr. Singh Khalsa used the card for personal expenses but the Institute paid the card's balance in full each month. The Institute did this for more than a decade. Despite repaying some of this debt, Mr. Singh Khalsa owed the Institute approximately $186,000, on June 29, 2018 for paying his personal expenses.

B. The Institute's Financial Decline

20. In 2017, the Institute's business began to decline as new language schools opened and began offering similar classes at lower prices than the Institute charged.

21. The Institute responded by reducing its prices to match the new competition. The price cuts and decreased enrollment reduced the Institute's revenue from $1,825,000 in 2016 to $1,577,000 in 2017. To compensate for this decline in revenue, the Institute took out short term advances from lenders against future receivables. These transactions required the Institute to pay back much more than the amount advanced, often with daily payments. The effective annual percentage rate on at least one of these transactions exceeded 60%.

22. In addition to the Institute's revenue decline, the Institute was told that it had to move. On June 28, 2017, the Institute's landlord, RREF II Kenmore Lessor II, LLC ("RREF"), gave the Institute notice that RREF intended to terminate the Institute's lease, as of July 30, 2018, to renovate the building that housed the Institute.

23. After receiving this notice, the Institute tried to move to another location in Boston, but it was unable to reach an agreement with the new landlord because the Institute did not have the financial resources to fund the relocation.

24. The Institute's financial problems deepened, and the Institute did not pay its rent for March through June of 2018, which totaled approximately $56,000. Mr. Singh Khalsa and

Gurumeet Singh Khalsa also managed cash flow by delaying checks to certain teachers and telling others not to cash their paychecks immediately. Some teachers and program coordinators had their checks repeatedly held, sometimes for months at a time. The Institute, at least once, had to borrow money from a high interest lender to make payroll.

25. On June 29, 2018 (the "Petition Date"), the Institute filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code, Case # 18-12508 in the United States Bankruptcy Court for the District of Massachusetts (the "Bankruptcy"). The Bankruptcy allowed the Institute to remain in operation and potentially reorganize the debts that it incurred before the bankruptcy filing. The Institute, however, had to continue to pay the operating expenses and rent that arose after the bankruptcy filing. The Institute also could not incur new debt without approval of the Bankruptcy Court.

26. As of the Petition Date, the Institute reported having approximately \$3,600 in its bank accounts. The Institute also reported having approximately \$200,000 in receivables which were largely uncollectable because \$186,000 was owed by Mr. Singh Khalsa, who had little ability to pay; it had also taken \$219,037 in prepayments from 297 students, which it had already spent; and it had \$876,534 in debt, not including the student prepayments.

27. The bankruptcy filing showed that the Institute was also paying for its current operations by spending the tuition prepayments that students made when they enrolled in classes that they had not yet started. If students stopped making deposits for future classes, the Institute would not have money to complete the classes that it was currently holding, and the students enrolled in future classes would not receive their courses or refunds.

28. After the Institute filed the Bankruptcy, Mr. Singh Khalsa testified at length, at the meeting of creditors, about the Institute's financial situation and the Institute's efforts to recover and grow its business.

29. Throughout the Bankruptcy, the Institute's financial position further deteriorated. A cash flow reconciliation filed by the Institute on October 10, 2018, showed that the Institute's cumulative profit between June 29, 2018 and the end of September 2018 had been $24,743; less than 40% of the Institute's expected profit by that point.[2]

30. During the Bankruptcy, Mr. Singh Khalsa testified in court that he was in negotiations with Chinese buyers who planned to come to the Institute in November of 2018 to conduct due diligence on the Institute for the potential purchase. In fact, Mr. Singh Khalsa did not sell the Institute and none of the Institute's program coordinators met the purported buyers.

31. In November of 2018, the Institute's expenses had exceeded its revenue by $66,807 and by November 30, 2018, the Institute, in the monthly operating reports required for its bankruptcy filing, declared that it had only $1,396 in free cash in its bank account. In that same November operating report, the Institute predicted that its expenses would exceed its revenue by more than $20,000 in December of 2018. Mr. Singh Khalsa signed this document under penalty of perjury.

---

[2] Even this positive cash flow may have been illusory given that the cash flow reconciliation did not include rent paid for September 2018 and did not include the more than $29,000 in bankruptcy attorneys' fees that the Institute had incurred but had not paid since the inception of the case.

32. By December of 2018, the Institute was unable to continue operations, which Mr. Singh Khalsa knew. The Institute had not made November salary payments to a number of foreign language teachers and at least one program director; it had bounced multiple payroll checks that it had issued in November and December; it had delayed its ordinary December payroll run; and it had failed to make its December rent payment to its landlord.[3] In December of 2018, Mr. Singh Khalsa told a program coordinator that he would not hire an intern for the coming year because he did not know where the Institute would be.

33. Mr. Singh Khalsa recognized that November and December were the Institute's slowest cash flow months and because it was in Chapter 11 bankruptcy, the Institute would not have credit cards or lines of credit to carry it through that period.

34. Further, on December 21, 2018, the Institute's bankruptcy attorney, John Sommerstein, moved to withdraw from representing the Debtor, citing irreconcilable differences. As a corporation, the Institute could not continue the bankruptcy case without an attorney. On December 28, 2018, the bankruptcy court authorized Mr. Sommerstein's withdrawal and gave the Institute until January 7, 2019, to find an attorney. While the Bankruptcy Court later extended the deadline for the Institute to find a new attorney until January 14, 2019, the Institute had not submitted an application to employ new counsel by that date and the Bankruptcy Court dismissed the Bankruptcy on January 14, 2019. The dismissal of the Bankruptcy ended the automatic stay which had prevented the Institute's creditors from seizing its bank accounts, evicting it, and initiating legal proceedings.

---

[3] The Institute also did not make its January 2019 rent payment.

35. Despite the Institute's catastrophic financial position and potential termination of bankruptcy protection, the Institute continued to enroll students for classes beginning in 2019. In late December 2018, Mr. Singh Khalsa initiated a sale where prospective foreign language Institute students would receive a 10% discount for classes beginning in February of 2019 when they paid for the course in full immediately; prospective English as a Second Language students would receive a 20% discount. This sale ran through January 14, 2019. The Institute also held an open house on January 10, 2019, for potential students. Mr. Singh Khalsa spoke at this event, encouraging students to enroll in the Institute's classes. As the Institute and Mr. Singh Khalsa encouraged the students' enrollment, they did not advise the students that the Institute was in bankruptcy or under severe financial pressure. They did not make these disclosures even though these students often were paying now for classes that would begin weeks to months in the future and the Institute was using the students' tuition prepayments to finance current operations.

36. As a result of these efforts, students continued to enroll in the Institute during December 2018 and January 2019. The Institute enrolled at fifteen students in the week leading up to its January 16, 2019 closure. The Institute did not tell these students that it was experiencing severe financial pressure.

37. At least one student, enrolled as of January 2019, heard from a teacher that the Institute was in bankruptcy and financially failing. He then disenrolled and requested a refund. The student was told that it would take several weeks to process the refund and he ultimately never received any refund of his tuition.

38. On January 16, 2019, Century Bank, one of the Institute's creditors, took advantage of the termination of the bankruptcy stay and recovered some of the money that it lent

the Institute by sweeping the Institute's bank account of all funds, approximately $50,000. This left the Institute with no money.

39. On January 16, 2019, Mr. Singh Khalsa e-mailed the Institute's students and teachers to announce that the Institute was closing immediately.

40. After receiving this e-mail, many students contacted the school to request refunds of their pre-paid tuitions; they did not receive them.

41. As the Institute spiraled towards closure, it did not provide refunds to students who signed up but were unable to complete their classes. It also did not tell prospective students about its catastrophic financial position. Instead Mr. Singh Khalsa encouraged enrollment with discounts and open houses and the Institute continued to enroll students until right before it closed, leaving students stranded. Mr. Singh Khalsa, at the time that he took these actions, knew that the Institute was withholding staff paychecks, bouncing paychecks to other staff, had not made rent payments, and was projected to lose far more money than it had available. Mr. Singh Khalsa knew that the Institute would not be able to continue operations.

V. CAUSE OF ACTION
(Violation of G. L. c. 93A)

42. The Commonwealth repeats and realleges paragraphs 1 through 41 of the Complaint.

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

i. Enrolling students in classes when the Defendants knew or should have known that the Institute would not be able to provide the students with the classes or refund their course fees;

ii. Guaranteeing to students that it would provide a refund if students were unsatisfied, when it knew it was not able to provide refunds to current students and knew it was unlikely to have any ability to make such refunds for future students;

iii. Failing to disclose to prospective students the Institute's bankruptcy and dire financial position at the time that they enrolled in classes; and

iv. Not refunding course fees to students for classes beginning after January 1, 2019, when the Defendants knew or should have known that the Institute did not have the ability to complete the classes for which students had enrolled.

44. The Defendants knew or should have known that they were committing acts and practices that were in violation of G. L. c. 93A, § 2.

45. The Defendants unfair or deceptive acts or practices resulted in harm to consumers.

VI. RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court:

A. Order the Defendants to refund all fees paid by students, including but not limited to registration and course fees, for classes which were not completed before the Institute closed on January 16, 2019.

B. Order the Defendants to pay any ascertainable losses of money or property to Massachusetts consumers who were harmed by their misconduct.

C. Order Defendants to pay the Commonwealth civil penalties of $5,000 for each violation of G. L. c. 93A, § 2, and costs, including reasonable attorneys' fees, pursuant to G. L. c. 93A, § 4.

D. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS
MAURA HEALEY
ATTORNEY GENERAL

Michael Sugar

Michael Sugar BBO #683901
Assistant Attorney General
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
617-963-2595
Michael.Sugar@Mass.Gov

Dated: September 4, 2019