

**Testimony of Margaret Reiter
Senate Health, Education, Labor & Pensions Committee
Hearing on Waste, Fraud and Abuse in the For-Profit Education Sector
June 24, 2010**

I worked as a Deputy Attorney General, then a Supervising Deputy Attorney General in the Consumer Law Section of the California Attorney General's Office for 20 years, until I retired at the end of 2008. The first cases I prosecuted in the late 80's and early 90's and one of the last prosecutions I supervised before I left were against postsecondary proprietary schools for unfair, unlawful, and fraudulent business practices and untrue and misleading advertising. The main difference between the 1990's and now is that for-profit schools now are more likely to be publicly traded, be larger and richer, and have much greater political clout, and the students wind up with much larger debts, including high cost private loans. In contrast, the abuses remain strikingly similar.

By the mid 1990's, I thought, naively it turns out, that we had turned the corner on fraud and abuse in the proprietary school industry. The AG had brought several successful cases against proprietary schools, California had established a strong state law (which required, among other provisions, a 100% pro-rata refund policy, and completion by 60 percent of students and job placement of at least 70 percent of graduates), the newly established independent California agency to oversee proprietary schools moved aggressively to police the area (putting 159 schools out of business by 1995 [California Postsecondary Education Commission, Effectiveness of California's oversight of Private Postsecondary and Vocational Education, 10/1995]) the federal student loan provisions had been tightened up (including by requiring at least 15 percent of a school's revenues to come from other than federal student aid and instituting cohort default rate criteria), and the Inspector General's Office of the Department of Education had become more active in enforcement. So for a number of years, the Consumer Law Section, which handles all types of consumer fraud cases, switched focus from proprietary schools to other types of the businesses.

By the late 1990's reports of abuse in the proprietary school sector again began to rise By the mid 2000's, continuing reports of rising amounts of fraud and abuse among proprietary schools again focused our attention on this area. By then, the strong independent California oversight agency had been eliminated. Federal safeguards had been watered down (including the requirement for 15% of revenues to come from other than federal aid was reduced to 10%, the cohort default provisions were weakened, and the prohibition on incentive compensation for recruitment had been regulated into a number of large loopholes. Meanwhile, many more proprietary schools had become large, publicly traded entities with dozens of locations around the state. Once again the California Attorney General's Office, under Attorney General Lockyer began an investigation into proprietary schools.

My testimony primarily summarizes the case developed against one large publicly traded proprietary college that resulted in entry of a stipulated judgment in 2007. A stipulated judgment means the matter did not come to trial, there was no judicial determination of liability, and the school did not admit any wrongdoing, but did agree to the terms of the judgment. The following is a summary of the allegations of the complaint, evidence that was to have been used to obtain a

preliminary order enjoining certain unlawful conduct if there had not been a settlement, and the terms of the judgment.

Summary of Allegations in the Complaint

The complaint alleged Corinthian Schools, Inc., a subsidiary of Corinthian Colleges, Inc. (and a related corporation) offers vocational programs at approximately 14 schools in California. It alleged the programs offered typically last from six to thirteen months, for which the school typically charges \$7,000 to \$15,000, with some longer courses costing as much as \$27,000. The complaint alleged that the vast majority of students enrolled pay for those high cost courses through financing that the school offers or arranges via government grants, government-subsidized loans, high-cost private loans and the school's own credit programs. The Complaint also alleged students who are unable to obtain a good-paying job in the field they studied may be saddled with the debt and the negative consequences of that debt for years to come, because, with a few limited exceptions, student loan debt is not dischargeable in bankruptcy.

The Complaint alleged the school engages in a persistent pattern of unlawful conduct; that the school's own records for many courses show that a substantial percentage of students do not complete the programs and, of those who complete the program, a large majority do not successfully obtain employment within six months after completing the course; and that the percentages of former students the school's documents claim successfully obtained employment are inflated. The Complaint also alleged that in some instances, the school's records even list non-existent businesses as the students' places of employment; and the salaries the school's records claim its former students earn are also often incorrect and inflated. The Complaint also alleged the school places intense pressure on its staff, particularly on those who recruit students and those who supervise them, to meet a pre-set quota of "starts." The Complaint alleged that means the employees are to enroll at least a certain number of students who stay in school beyond the five-day period during which students may withdraw from school and obtain a full refund under the California Education Code in effect at the time. The Complaint alleged the school uses various untrue and misleading statements to induce students to enroll and not cancel, despite the poor chances of success, and engages in other unfair, unlawful or fraudulent business acts and practices.

Summary of Evidence re Representations about Job Placement and Salaries

The Attorney General's Office gathered evidence to support the allegations in the Complaint and to support an Application for a Temporary Restraining Order and Preliminary Injunction against the school. Any evidence gathered to support the allegations of the Complaint, but not needed to support the request to enjoin certain conduct during the pendency of the action is not included in the summary that follows. The evidence summarized here includes statements from the school's own records or its public statements, and oral testimony and written declarations given under oath. The evidence consists primarily of hundreds of sworn written declarations from employers where the school claimed its graduates obtained employment, but also includes declarations or testimony from former students, former employees and secret shoppers. This section summarizes that evidence:

Students Solicited with Ads about Job Training and Careers

In 2005, the school enrolled at least 11,350 students in its schools in California in various vocational programs. The school admits its students are not the typical college-bound high school students who spend months and years choosing their college and carefully planning their future careers.¹ Instead, its students, the majority of whom are women, over 21 years of age, and minorities, enroll after seeing or hearing an advertisement on television, radio, or posted in an unemployment office, that promises quick and easy job training for lucrative careers.² The school's students typically invest in an expensive education at this school for one primary reason – to obtain skills that will lead to a job that pays more than minimum wage and therefore leads to a better life for themselves and their families.³

The school's advertisements focus on students' employment-related motivation. The school's printed advertisements promise "[l]ife changing career training," "education and training you'll need to accomplish your career goals," and the "education you need to build a successful career for years to come."⁴ Similar statements include:

- Our education is recognized and valued by employers, and so are our graduates. We are dedicated to helping people change their careers and their lives.
- [Our] College has helped thousands of students train for a new career – and build a better life. We are dedicated to helping you succeed. This means that in addition to providing you with career education and training, we're also committed to helping you find a job that's right for you.⁵

Written Employment Disclosures Then Required by California Law Inflated or Falsified

Under the then current law, schools could count a student as having obtained employment if they could document that the student was employed: (1) within six months after completing the program; (2) for at least 32 hours per week for a period of at least 60 days; (3) "in the occupations or job titles to which the program was represented to lead," and a student who

¹ See Statement of David. G. Moore, CEO, Corinthian Colleges, Inc., before the Committee on Education and the Workforce, U.S. House of Representatives, Serial No. 108-63 (June 16, 2004) ("Moore Statement") at p. 33.

² *Id.* at p. 36 ["Of our 66,000 students, approximately 73 percent are female, 70 percent are over 21 years of age, and about one-half are minorities"] and p. 39 [60% of students at Bryman College, San Bernadino, are Hispanic and African American; "about half" of the students at Bryman College, Anaheim, are Hispanic or "other minorities"]; see also transcript of the telephonic deposition of [Former employee] at pp. 34-35 [one of Corinthian's regional directors of admissions told a new director of admissions for the Reseda campus that her admissions representatives should "[t]arget [recruitment efforts] towards low-end Hispanic students," including by talking to McDonald's employees while using the drive-thru window]; Declarations of Students ("Student Decls.") TMB [student enrolled after seeing Defendants' ad in unemployment office].

³ See, e.g., Declaration of EH at ¶ 7; Student Declarations TMB, SG, MB and BC.

⁴ Declaration of RH Ex. 2; Declaration of SR Ex. 5.

⁵ Declaration of IS Exs. 9, 29.

worked less than 32 hours per week if the student completed a handwritten statement “at the beginning of the program and at the end of the program which states that the student’s educational objective is part-time employment.”

The Attorney General compared the school’s records for certain courses offered in Alhambra, West Los Angeles (“West L.A.”), and San Jose schools for 2003 and 2004. Hundreds of declarations by former students and employers listed in those records⁶, contradicted the information contained in the school’s records.⁷

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⁶ Declarations of Employers (“Employer Decls.”); Student Decls.

⁷ For the purposes of comparing the employment percentages based on this evidence to the employment percentages disclosed by the school, the AG counted only two groups of students who completed their programs as not having obtained employment: (1) students the school stated did not meet one or more of the criteria of Education Code sections; and (2) students or employers from whom the Attorney General obtained a declaration showing that the students’ employment did not meet one or more of the required criteria. If the AG was unable to locate the student and/or employer to verify the information the school reported, for purposes of comparison, the AG assumed that the student had been employed as the school reported.

The school excluded from its calculations students who decided not to obtain employment and within six months of completing the program enrolled in a program to continue their education. Although the school should not have used that exclusion for its calculation under the applicable California law, the AG did not add those students back in for purposes of this comparison. If he had, the percentages would have been even lower.

The discrepancies between the school's records and the evidence the AG obtained is calculated in the following charts, showing the school inflated the percentage of its students who obtained employment by at least 2 to 37 percentage points. The chart also shows that for many programs, the school did not meet the then mandated state placement rate of 70 percent.

Alhambra 2003	Def's.' Reps. to Students	People's Evid.	San Jose 2003	Def's.' Reps. to Students	People's Evid.	West L.A. 2003	Def's.' Reps. to Students	People's Evid.
Business Office Asst.	72%	57%	Dental Asst.	68%	59%	Bus. Mgmt. Asst.	79%	60%
Business Office Mgmt.	72%	65%	Med. Asst.	50%	44%	Dental Asst.	73%	51%
Dental Asst.	73%	53%				Diagnostic Med. Sonographer	80%	43%
Medical Admin. Asst.	56%	51%				Echocardiographer	63%	40%
Medical Asst.	60%	52%				Medical Asst.	45%	39%
Medical Billing & Coding	66%	51%				Medical Billing & Coding	38%	36%
						X-Ray Tech.	46%	43%

Alhambra 2004	Def's.' Reps. to Students	People's Evid.	San Jose 2004	Def's.' Reps. to Students	People's Evid.	West L.A. 2004	Def's.' Reps. to Students	People's Evid.
Medical Asst.	53%	48%	Med. Asst.	36%	30%	Medical Asst.	47%	40%
Medical Billing & Coding	42%	34%						

Under the law in existence then, different reporting criteria applied to some courses, such as massage. Schools could count students who "secure employment in the field for which they were trained."

As with the above programs, students and employers listed in the school's records for the massage therapy courses provided declarations that contradicted information in the school's records.⁸ For purposes of comparing the school's records with student and employer declarations showing whether massage therapy students obtained employment the Attorney General counted

⁸ Employers Decls.; Student Decls.

as not having obtained employment (1) students that the school admitted did not work as massage therapists; (2) students that the school admitted worked fewer than 10 hours per week or 40 days total; (3) students who the school showed started employment more than 6 months after finishing their courses; and (4) students for whom declarations from the students or employers the school identified showed the students never worked as massage therapists, were employed fewer than 10 hours per week or 40 days total, or who did not start their employment within 6 months of completing their massage therapy programs. Those the AG was unable to locate to verify employment, were assumed, for comparison purposes, to have secured employment.

For all three massage therapy programs, the school consistently reported students as being employed at non-existent, fake businesses that the students invented as part of a class assignment in order to learn how to make business cards.⁹ The school's required disclosures gave an inflated count of the employment percentages for all three programs checked, the difference ranging from at least 14 to 28 percentage points.

San Jose 2004	Def's.' Reps. to Students	People's Evidence	West L.A. 2003	Def's.' Reps. to Students	People's Evidence	West L.A. 2004	Def's.' Reps. to Students	People's Evidence
Massage Therapy	68%	40%	Massage Therapy	89%	66%	Massage Therapy	57%	43%

In summary, for every single program for which the AG contacted students and/or employers, the employment percentages that the school reported on the written disclosures required by California law were inflated, by up to 37 percent. In most courses, only 30% to 52% of graduates obtained employment. Ten of 19 programs had placements rates of less than 50%; fifteen had placement rates of less than 55%.

Required Disclosures about Salaries Graduates May Earn Are Inflated or False

The school also makes both express and implied claims regarding the salaries of their graduates. The school's brochures are laced with statements like, "Top Ten Reasons for an Education 1. To make more money;" and

Why pursue an education beyond high school? Return on investment . . . The time and money you invest in your education can deliver benefits once you graduate. In many cases, the increased earnings after only one year will justify the cost of a student's education. A \$5.00 wage increase per hour equals an extra \$10,000 per year.¹⁰

The school tells potential students how much they can expect to earn after graduating.¹¹ In addition, the school makes implied claims regarding the future salary potential of enrolling

⁹ See, e.g., Student Decls., nos. 2600, 2608; nos. 2874, 2891, 2907, 2919, 2930, 2938, 2943.

¹⁰ Declaration of JT, Ex. 16; IS Decl., Ex. 8; and Declaration CT Ex. 6.

¹¹ See, e.g., ML Decl. at ¶¶ 21-24 [Defendants stated that potential student could earn between 11 and 18 dollars per hour after completing medical assisting program].

students. For example, while discussing financial aid, the school told RF that she would make “way more than \$9,000 [tuition cost]” in her job as a medical biller and that she would earn “more than triple” that amount.¹²

Because the school makes such claims, it was required under California law to disclose its students’ starting salaries. Because its salary disclosures are based on the same records provided as to students who completed the programs and many of those students did not meet the employment criteria or were not employed as the school reported, its statements about the salaries earned were also inflated or untrue.

Oral Job Placement Claims Falsely Higher Even Than the School’s Own Inflated or False Written Job Placement Disclosures.

Over the course of two years, nine secret shoppers, posing as potential students at six different school locations received false or misleading information that concealed or contradicted the school’s written disclosures about employment success, as well as the salaries, of their students. Those experiences are corroborated by declarations from former employees and students.

1. In May, 2006, for example, at the school’s San Jose campus, the school told PW that the employment percentage for massage therapy “right now” is “closer to 80%” for its graduates.¹³ According to the written disclosures provided, however, only 68% of San Jose massage therapy students scheduled to graduate in 2004 found employment (compared to a worse rate of 63% in 2005). Similarly,

- In October 2006, the school told CT that “about 85%” of students who graduate from the medical administrative assistant program get jobs.¹⁴ The school’s written disclosures stated, however, that only 50% of medical administrative assistant graduates in 2004, and 60% in 2005, had obtained employment.
- In October 2006, the school told ML that the Reseda campus graduates had achieved an employment rate of 90.1%.¹⁵ The school’s written disclosures for the program in which ML had indicated an interest, medical assisting, stated that only 54% of medical assisting graduates in 2004, and 63% in 2005, had found employment. According to the school’s disclosures, the aggregate employment rate for all Reseda graduates was 62% in 2004 and 65% in 2005, not 90.1%.
- In January 2006, the school told RF that 51% of the medical billing program graduates at the West L.A. campus found employment, while the written disclosures stated that 33% of 2004 medical billing graduates found employment.¹⁶

¹² Declaration of RF at ¶ 18.

¹³ PW Decl. at ¶ 10.

¹⁴ CT Decl. at ¶ 20.

¹⁵ ML Decl. at ¶ 18.

¹⁶ RF Decl. at ¶ 31.

- In August, 2005, the school told JT that their accrediting agency “holds us to certain guidelines for our students” including “placing at least 69% of the students in the position that they went to school for.”¹⁷ The school’s written disclosures for the program in which he stated an interest, medical assisting, stated that only 60% of medical assisting graduates in 2003, and 54% in 2004, had found employment.¹⁸

A former director of admissions at the Reseda campus who supervised the admissions representatives reported that, in every single interview that she witnessed, admissions representatives told potential students that the Reseda campus had “an extremely high placement rate” of between “85 and 90 percent . . . in qualified jobs,” regardless of the program the potential students were interested in, or enrolling in.¹⁹ Even as a supervisor of these admissions representatives, she never witnessed any of them orally disclose the actual employment percentages for the program in which the student was enrolling.²⁰

The school also tells potential students to disregard disclosures because they are purportedly outdated and the “current” employment percentages of graduates are higher. In October, 2006, for example, the school told IS that the 2004 employment percentage for pharmacy technician program graduates at the San Francisco campus, the disclosure the school was required by law to make, was outdated. The school told her that the more accurate rate was 54% for that year to date.²¹ The school’s written disclosures for this pharmacy technician program, however, stated that only 40% of pharmacy technician graduates in 2004, and 43% of pharmacy technician graduates in 2005, had found employment. A former director of education reported seeing the same practice at the San Jose campus.²²

The school also provided older, outdated employment disclosures, rather than more recent disclosures stating lower employment percentages. In September, 2006, for example, the school gave RH written employment disclosures for 2001 graduates and orally stated that the form was correct that “80%” of “medical/dental billing” graduates at the Alhambra campus found jobs.²³ The school’s more recent disclosures, however, stated that only 53% of medical assisting graduates in 2004 had found employment.

The school also overstated the likelihood that a potential student would obtain a job, in light of the employment percentages of the school’s graduates. The school told JT that there’s “no way that you can’t” get a job unless you “just bombed at school” and that this happened to less than 5% of the school’s students.²⁴ Yet, as set forth above, the employment rate for 2004 graduates of the program in which JT was interested was 54%. Similarly, the school’s admission

¹⁷ JT Decl. at ¶ 7.

¹⁸ PW Decl., Ex. 4.

¹⁹ * Decl., Ex. 27 at p. 110.

²⁰ *Id.* at p. 118.

²¹ IS Decl. at ¶¶ 25, 26.

²² Declaration of MJ at ¶ 18.

²³ RH Decl. at ¶ 13, Ex. 3.

²⁴ JT Decl. at ¶ 19.

representative told SR that the school is "like the UCLA of vocational schools" and that, although he could not guarantee it, as long as she did well at school she would not have "any problem getting a job."²⁵ According to the school's written disclosures, however, the employment rate for 2004 West L.A. graduates from the medical assistant program was only 47%.

Required Job Placement Disclosures Not Made

The school either did not provide, or denigrated the employment disclosures then required by California law. In seven of eight secret shopper visits in which an oral disclosure was then required by California law, the school failed to disclose orally the employment statistics stated on their written disclosures.²⁶ In the one remaining visit, although the school orally disclosed the employment rate reflected on the disclosure, this disclosure was undermined by a statement that the rates were "out-of-date" and that the potential student would be enrolling in a program with a higher employment rate.²⁷

The school did not provide the required written disclosures in the three visits of CT, ML and even KM, who actually enrolled.²⁸ With respect to the other six secret shopper visits, the written disclosures were undermined and/or contradicted in various ways. The school did not provide the disclosures to PW, SR, or RH until they enrolled during their second visits and only after the school had orally represented false and inflated employment rates.²⁹ Similarly, although the school provided the written employment disclosure to JT on his first visit, it did so only after it had orally represented false and inflated employment statistics.³⁰ In none of these cases did the school point out the disclosures to correct the false information previously provided. Finally, with respect to IS and RF, although the school may have asked them to sign the written disclosure on the second visit, it did not provide them with a copy.³¹

And, each time one of the secret shoppers enrolled, the school rushed them through the signing of the employment disclosures, without affording them time to review them as required by law. A former director of admissions routinely saw a similar practice at the Reseda campus, where the admissions representative downplayed or concealed the significance of the employment disclosure by including it in a large stack of documents and saying, "just go ahead and sign this."³² She never witnessed a single admissions representative actually explain the employment disclosure.³³

Oral Misrepresentations about Salaries that Can Be Earned; Concealment of Salary Information about Graduates

²⁵ SR Decl. at ¶¶ 10, 11.

²⁶ See RF Decl.; RH Decl.; ML Decl.; Declaration KM; JT Decl.; SR Decl.; and CT Decl.

²⁷ IS Decl. at ¶¶ 25, 26.

²⁸ See CT Decl.; ML Decl.; KM Decl.

²⁹ PW Decl. at ¶¶ 10, 36; SR Decl. at ¶¶ 11, 25; RH Decl. at ¶¶ 13, 45.

³⁰ JT Decl. at ¶¶ 7, 15

³¹ IS Decl. at ¶¶ 25, 26; RF Decl. at ¶¶ 14, 29, 31.

³² * Decl., Ex. 27 at p. 114.

³³ *Ibid.*

The school told JT and RH, who visited the Alhambra campus in 2005 and indicated an interest in the medical assisting program, that they could earn salaries that were higher than the salaries the school's written records showed its graduates earning. Referring to www.salary.com, the school told JT that he could earn an average salary of \$31,000 per year and told RH that he could earn \$29,000 per year and even had the potential to earn \$72,000 per year.³⁴ The school gave JT a print-out from the website containing this information, yet never provided him with or showed him a copy of its own salary disclosures.³⁵ According to the school's own written disclosures, the vast majority (34 out of 47) of 2003 Alhambra medical assisting graduates who obtained employment earned between \$14,412 and \$22,200 per year.³⁶ Only 2 of the school's graduates were reported as earning \$29,000 or more per year.³⁷ In addition, the school reported only one 2004 graduate as earning \$28,800 or more per year, while it reported 176 out of 188 medical assisting graduates from 2004 earning between \$12,012 and \$21,600 per year.³⁸

The school engaged in similar tactics in the 6 other secret shopper visits:

- When, in September, 2006, IS asked what salary she could expect to earn on graduation, the school told her to check www.salary.com; although the school asked her to sign a number of documents on her second visit, which included a written salary disclosure, the school did not give her a copy of the written disclosure.³⁹
- In July, 2006, the school showed KM a website regarding salaries and stated that she could earn a salary of \$35,000 a year as a medical assistant, and that there were even some graduates making \$38,000 a year; the school never provided her with a written or oral salary disclosure for that program for the campus she visited, the San Jose campus.⁴⁰
- In January, 2006, the school told RF that the website "monster.com" lists starting pay for medical billers as \$18.00 per hour (approximately \$37,000 per year); although the school had her sign a written salary disclosure, the school did not give her a copy of it and never orally disclosed the information on it.⁴⁰ According to written salary disclosures for the West L.A. campus, 16 of 19 medical billing graduates from 2004 earned between \$14,412 and \$26,400 per year, while only 3 earned more than \$28,812 per year.⁴¹
- In October, 2006, the school told ML that she could earn between \$11.00 and

³⁴ JT Decl. at ¶¶ 13, 18; RH Decl. at ¶¶ 18-21.

³⁵ JT Decl., Ex. 5.

³⁶ * Decl.; RH Decl., Ex. 34.

³⁷ * Decl.;

³⁸ * Decl., Ex. 16.

³⁹ IS Decl. at ¶¶ 10, 27.

⁴⁰ RF Decl. at ¶¶ 11, 31, 37.

⁴¹ * Decl., Ex. 18.

\$18.00 per hour (approximately \$22,800 to \$37,000 per year) after completing the medical assisting program at the Reseda campus. The school also stated that she could earn her tuition of \$13,000 back in 4 to 5 months (total earnings of \$52,000 to \$65,000). The school did not provide her with the required oral or written salary disclosures.⁴²

- In May, 2006, although the school showed PW a “fact sheet” with information about salaries on his second visit, they did not provide him with a copy.⁴³
- Finally, although the school implied that CT could increase his earnings by enrolling, the school never provided him with any salary disclosures, oral or written.⁴⁴

These practices are corroborated by the testimony of two former employees. A former director of education at the San Jose campus witnessed admissions representatives quoting salary ranges to potential students, even though these ranges were not paid to the school’s graduates according to its own data.⁴⁵ A former director of admissions from the Reseda campus witnessed admissions representatives engage in a practice of providing the salary disclosures in a large packet of documents to be signed, with statements like, “You know how all this paperwork is. Just sign all these. And, you know, they’re not for money or anything, so don’t worry about it.”⁴⁶

Other Unlawful Business Practices

The school also has referred students who do not have high school diplomas to a business that provides fake diplomas for a fee. When ML, for example, indicated an interest in enrolling in a program for which the school required a high school diploma, the school told her that they could refer her to a business where she could get a high school diploma by paying \$250.00 and attending only one day of class.⁴⁷ A former director of admissions for this same campus similarly testified that the school referred potential students who did not have high school diplomas to a business called “Victory,” where they could get a diploma in one week by paying \$400.00, a practice about which the regional director of admissions and other corporate-level employees were aware.⁴⁸

With three different secret shoppers at two different campuses, the school encouraged JT, RH and SR to lie about their incomes, or told them how much income they should report on their applications.⁴⁹ In addition, the former director of admissions at the Reseda campus routinely witnessed the regional director of admissions and other employees from the corporate offices telling potential students what income amount to write into their financial aid applications and

⁴² ML Decl. at ¶¶ 21-24, 30.

⁴³ PW Decl. at ¶ 35.

⁴⁴ CT Decl. at ¶ 22, Ex. 6.

⁴⁵ MJ Decl. at ¶ 19.

⁴⁶ * Decl., Ex. 27, at p. 120.

⁴⁷ ML Decl. at ¶ 35.

⁴⁸ * Decl., Ex. 27 at pp. 83-85.

⁴⁹ JT Decl. at ¶ 23; RH Decl. at ¶¶ 27-29; SR Decl. at ¶ 17.

encouraging them to (1) have a parent co-sign the loan documents while they were drunk; (2) forge their parents' signatures on the loan documents; (3) steal and use the social security number of a parent or relative; and (4) make up or guess their incomes.⁵⁰

Summary of the Terms of Judgment

The Judgment required the school to provide five million eight hundred thousand dollars in restitution to students in the form of cash and cancellations of contracts, pay up to \$100,000 for administration of the restitution program, pay \$500,000 into the unfair competition law fund (a state-mandated fund in which civil penalties are deposited) and \$200,000 in expenses to the AG, for a total monetary amount of \$6.6 million. It enjoined the school from unfair, misleading and unlawful conduct alleged in the complaint and required the school to stop offering nine of its lowest performing programs for at least 18 months.

Conclusions

I believe the evidence summarized here has importance beyond the particular school in question.

The Current System Allows the Kind of Poor Outcomes Described Above

The primary lobbying group for proprietary schools describes itself as an organization of private postsecondary schools that “provide career-specific educational programs.”⁵¹ You don't have to watch much TV to know proprietary schools hold themselves out as great places to get career education. Under the law, proprietary schools' programs are only eligible for federal student aid if the program prepares students for gainful employment. But despite the focus on employment/career education, the truth is, for decades, federal student aid has been provided to virtually any school that is accredited, or can buy an accredited school, without regard to whether the programs can prepare a student for employment, whether there is any need for such employment, or whether the remuneration from the employment would be adequate to pay the student's loans and other living expenses.

The student aid program applies no uniform standards to determine whether schools required to prepare students for gainful employment actually do so. There is no uniform standard definition of what constitutes employment, much less, what is the minimum level of employment success a school must meet, what data must be collected and maintained to support statements of employment success or how such data must be verified to ensure it is accurate.

Accreditation Does Not Prevent Poor Outcomes, Fraud or Abuse

Virtually every school the California AG has sued since the late 1980's, including the school described here, was accredited; accreditation did not stop the harmful practices. Even after the AG accumulated the evidence described here, the school's accreditors or potential

⁵⁰ * Decl., Ex. 27 at pp. 18-21, 87-89, 94.

⁵¹ CCA press release 6/9/2010.

future accreditors showed no interest in examining the evidence. Private accrediting agencies do not have uniform or specific standards as to what constitutes a job placement. In any event, they are simply not equipped or designed to police the conduct that harms students and saddles taxpayers to pay this massive, but little understood Wall Street subsidy.

Numerous IG, GAO and other reports and studies over the years affirm that accreditation is inadequate to the task. (See e.g., IG Report, Accrediting Agency Recognition Process Does Not Serve as an Effective Control in Determining the Reliability of Agencies that Accredit Numerous Problem Schools, 1991; IG Report, Managing for Results, Review of Performance-Based Systems at Selected Accrediting Agencies, 1995.) In 2003 the Inspector General found that

“[T]here is no assurance that the [U.S. Department of Education unit charged with recognizing accrediting agencies] evaluated accrediting agency standards and procedures in a consistent and effective matter.”

Current Means of Redress for Students Are Inadequate to Effectuate Change

Although the president of the Career College Association recently stated on Frontline that if students are misled, the government could wipe out their loans, that is not the state of the law. The Department does not just refund students their loan money if the school misled them or did not prepare them for gainful employment. The circumstances in which the Department of Education can “discharge” a student’s loan debt due to a school’s conduct are currently limited to a few circumstances, such as if the school falsely certified the student was eligible for student aid, or the school closed before the student completed the program. In any event, the current limited after-the-fact method of relieving students from liability, while providing much needed relief in limited circumstances, does nothing to change the system, primarily because the chances that the school and lender will be held liable for discharged amounts are small.

Similarly, schools, lenders and investors are insulated from students defaulting on their loans. Students cannot discharge student loans (even loans made by private companies) in bankruptcy, except in a few very limited circumstances. That is a unique benefit for private lenders not available to other types of private creditors.

Prosecutions or Private Litigation Are Not the Whole Answer

Prosecutions, while helpful, are expensive and time consuming. Government agencies’ resources are dwarfed by those of the industry. There would never be enough resources to adequately police conduct. Without specific requirements, such as we had in California, for the job placement rate a school must meet, cases are much more amorphous. It is much more difficult to discover and prove that a school misleads its students as a general practice if there is no standard required standard or disclosure to test the representations against. In any event, lawsuits are after the fact, often years after harm has occurred.

Private litigants and state and local prosecutors alike are barred from enforcing the student aid provisions directly. Private litigation is sometimes initiated by former employee

whistleblowers who know the ways a school received student aid for students based on false information. Few attorneys have the expertise or the tremendous resources needed to bring a case on behalf of former employees or to represent impoverished former students in cases brought under state laws.

The Problem is Not Just a Few Bad Apples

Because proprietary schools are not required to demonstrate they really can prepare students for careers that pay adequately to support student loan payments, we have no data to support the often stated notion that most are doing an adequate job. What we do know is that despite the difficulties and expense of litigation, there has been a rising tide of administrative actions, prosecutions and lawsuits. These actions are not limited to fringe operators. Many of these actions are against some of the largest, most visible proprietary schools for their recruitment practices, including their misrepresentations about accreditation, transfer of credits or their graduates' success in job placement and obtaining good salaries. That rising tide, however, is likely the tip of the iceberg. Many private cases are settled, often with confidentiality provisions, so there is no public document identifying the lawsuit or the amount of the settlement, much less the evidence obtained in the course of the litigation. Confidential settlements may explicitly or implicitly prevent or students from contacting public agencies about the alleged wrongful conduct.

Simply Adding More Disclosure Is Not the Answer

As demonstrated by the evidence discussed above, disclosures can easily be avoided or manipulated to prevent their impact □ by providing them in a stack of documents; denigrating them as out of date or not anything important as they are not about money; or requiring students to sign them, but not giving them a copy. Of course, even if disclosures were given, because there is currently no standard definition of what constitutes a job placement, such disclosures would also be largely meaningless. More fundamentally, we know the task of enforcement is difficult and expensive for government agencies. We cannot expect that students would be able to police the expenditure of billions of dollars in taxpayer funds, especially since they have no ability to sue directly for violations of the Higher Education Act.

The Current System Fuels a Race to the Bottom

Since proprietary schools were included in the GI Bill after World War II, commentators and legislators have repeatedly recognized that these schools disproportionately account for poor outcomes, fraud and abuse. Yet the current system continues to fuel a race to the bottom. The kinds of conduct described are the natural outcome of a system that allows a 90% federal subsidy for private sector, for-profit schools, but doesn't measure employment success or require any minimal level of success. Consequently, the schools are measured by Wall Street on their "starts," not their finishes.

Based on my knowledge of other investigations and cases against proprietary schools over the years and my experience in investigating and prosecuting all types of consumer fraud cases, in my opinion, the consumer abuses in the proprietary school industry are among the most

persistent, egregious and widespread of any industry.

The Department of Education has proposed some much needed regulations to attempt to fix the problem. That is a good start, but fixing this problem will require stronger, tougher regulations than the Department of Education has yet proposed. It will also require legislative measures that finally get to the heart of the problem.