

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
DEPARTMENT OF THE TRIAL COURT  
Civil Action No. 17-2073H

\_\_\_\_\_)  
IN THE MATTER OF )  
DEVRY UNIVERSITY, INC., )  
\_\_\_\_\_)

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

SUFFOLK SUPERIOR COURT  
2017 JUN 30 4:10 PM  
MICHAEL J. SULLIVAN, CLERK / IT/ADMIN

**I. INTRODUCTION**

1. The Commonwealth of Massachusetts (“Commonwealth”), through the Office of Attorney General Maura Healey (“AGO”), and DeVry University, Inc. enter into this Assurance of Discontinuance (“AOD”) pursuant to M.G.L. c. 93A, § 5.

2. DeVry University, Inc. (“DeVry”) operates a private for-profit postsecondary educational institution with more than 55 campuses across the country. DeVry offers both online and campus-based programs, primarily in business, technology, and management. Students have the option of enrolling in a Certificate program, Associate, Bachelors or Graduate degree programs, or enroll as a non-credential seeking student.

3. DeVry does not have a campus in Massachusetts. Massachusetts students take DeVry courses online.

4. Pursuant to M.G.L. c. 93A, § 6, the AGO has conducted an investigation of DeVry’s recruitment practices in Massachusetts (the “Investigation”). Based on the Investigation, the AGO alleges that from 2011 through 2015, DeVry made various claims concerning the employment outcomes of DeVry’s graduates, including on DeVry’s website, in social media, print advertisements, through television commercials, telephone and in-person presentations to prospective students.

5. In many of these advertisements and presentations to prospective students, DeVry represented

that 90% of DeVry graduates who actively sought employment had careers in their field within six months of graduation. While most advertisements state DeVry's placement rate for recent graduates as exactly 90%, some represent the placement rate to be 87% or 92%.

6. The AGO alleges that DeVry presented this 90% placement rate as proof that obtaining a DeVry degree leads to finding a career job in one's field of study. The AGO alleges that DeVry's 90% claim was misleading because: (1) some of the graduates included in the 90% figure were graduates who were already employed in their field prior to either enrolling into or graduating from DeVry, (2) some of the graduates included in the 90% figure were employed in jobs that would not reasonably be considered in their field of study because they were not using the skills obtained in their program of study to perform a significant portion of their daily duties, (3) DeVry excluded graduates from its statistics by classifying these graduates as "inactive" based on the graduates' failure to fulfill certain Career Services requirements, and despite other efforts made by the graduates to obtain in-field employment, and (4) the footnotes of advertisements containing information about the graduates who were excluded from the 90% placement rate were unclear and inadequate to counteract the net impression that the 90% advertisements conveyed to prospective students. In addition, information contained in the footnotes were not provided to prospective students during recruitment calls, and though DeVry made information on program-specific placement rates available to students, DeVry did not include in the footnotes that some of its programs had significantly lower placement rates. For example, using DeVry's rate calculation methodology, DeVry reported that the placement rate for DeVry's Web Graphic Design associate's degree program was 52% in 2011, 64% in 2012, and 71% in 2013, and the placement rate for Game & Simulation Programming bachelor's degree program was 61%, 69%, and 72% over the same period. DeVry did not include these lower program-specific rates in its advertisement footnotes; rather, these rates were disclosed separately in documents and website information made available to students.

7. DeVry also represented that, as a result of attending DeVry, one year after graduation the median earnings of its graduates with bachelor's degrees were 15% higher than the median earnings of

graduates with bachelor's degrees from all other colleges and universities. This higher income claim was based on a study carried out by a third-party entity, PayScale, Inc. ("PayScale"). PayScale's data was obtained through voluntary surveys of employees who were asked to report their salaries to PayScale. The AGO alleges that these salary claims were misleading. For example, the AGO alleges that there were flaws in Payscale's methodology and that these salary-related representations were not adequately substantiated.

8. The AGO alleges that as a consequence of these alleged representations, DeVry unfairly or deceptively induced Massachusetts students to enroll in its programs and take on associated student loan debt.

9. AGO and DeVry both voluntarily enter into this AOD.

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

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

## **II. TERMS OF THIS ASSURANCE**

12. Within ten (10) business days of the entry of this AOD, DeVry shall make a payment of \$455,000 to the AGO. The AGO shall distribute this payment in its sole discretion to or on behalf of Massachusetts DeVry students. No part of this payment is or shall be considered a penalty or fine. DeVry shall make this payment by sending a certified check, made payable to the Office of the Massachusetts Attorney General, to the attention of Katherine Hurley, Insurance & Financial Services Division, Office of the Attorney General, One Ashburton Place, 18<sup>th</sup> Floor, Boston, MA 02108.

13. DeVry agrees that in the event that it decides to operate a brick and mortar campus in Massachusetts in the future, DeVry will provide notice to the AGO of its intent to own or operate the school at least 60 days prior to the school's opening. In such circumstances, DeVry will adopt in compliance with applicable laws and regulations, appropriate safeguards and compliance functions designed to ensure any disclosures to the public and prospective students, including any disclosures regarding its employment outcomes calculated by DeVry or any third party on DeVry's behalf, are accurate; provided that DeVry shall

not be obligated to ensure the accuracy of data calculated and provided by state or federal government agencies, such as Gainful Employment disclosure data, that DeVry discloses.

14. DeVry agrees it shall not make any representation, expressly or by implication, about the earnings that graduates of DeVry can be expected to receive, including but not limited to, misrepresenting that the earnings of any group of students or graduates is or was (a) equal to or greater than a specific amount, average or median, or (b) equal to or greater than the earnings received by any other group of students or graduates without adequate substantiation, provided that DeVry shall not be obligated to substantiate data calculated and provided by state or federal government agencies, such as Gainful Employment disclosure data, that DeVry discloses.

15. DeVry agrees it shall not make any representation, expressly or by implication, that any employment statistic reflects the success of graduates in obtaining employment near or after graduation when the statistic includes employment that graduates obtained (a) before enrolling in its program, or (b) at any time more than six months prior to graduating; provided, however, that nothing in this paragraph shall be construed to prohibit DeVry from making a representation to a state or federal authority or programmatic or institutional accreditor on a reporting form required by such entity, provided further that DeVry clearly and conspicuously disclose on such form either as the primary number or in a footnote in 14-point font, the percentage of students who obtained their jobs upon or after graduating.

16. DeVry agrees that it shall not make any representation, expressly or by implication, that any employment statistic reflects the employment status or employment success of graduates who were actively seeking employment if graduates were classified as not actively seeking employment based on (a) having waived career-services assistance or (b) the extent to which the graduates used career services.

17. To the extent that DeVry classifies certain graduates as failing to actively pursue employment for purposes of calculating placement rates (i.e., as “inactive”), DeVry agrees it shall not classify a graduate as “inactive” based on factors such as the graduate’s failure to log into DeVry’s job postings database where DeVry has or is able to obtain other information that the graduate is actively seeking employment.

18. When calculating employment outcome statistics, DeVry agrees it shall not classify a graduate as employed in the graduate's field of study unless DeVry has a reasonable basis to conclude that the graduate uses the knowledge, skills and/or abilities acquired in the degree program of study to perform a majority of the graduate's regular job duties.

19. DeVry agrees that it shall clearly and conspicuously disclose in its advertisements to Massachusetts residents that include graduate employment outcomes in the aggregate or for a degree or certificate category, any program-specific placement rates that are 10% lower than the combined placement rate in the aggregate or for the degree or certificate category. This requirement shall not apply to reports or disclosures of combined placement rates made by DeVry pursuant to state or federal statute, order or regulation.

20. DeVry agrees to provide reasonable cooperation to the AGO during the implementation of this AOD, and provide promptly all information and documents reasonably requested by the AGO during the implementation.

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

22. This AOD constitutes the entire agreement between the AGO and DeVry and supersedes any prior communication, understanding or agreements, whether written or oral, concerning the subject matter of the AOD. This AOD can be modified or supplemented only by a written document signed by both parties.

23. This AOD shall be binding upon DeVry, its officers, directors, employees, agents, subsidiaries, successors, and assigns, and upon the AGO, its officers and employees. This AOD is also binding on any and all entities, present or future, run by the leadership of DeVry. Paragraphs 15-21 shall apply only to DeVry's recruitment or solicitation that is reasonably expected to reach Massachusetts residents.

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

25. All notices relating to this AOD shall be provided as follows

To the AGO:

Elizabeth Nsahlai, Assistant Attorney General  
Insurance & Financial Services Division  
Office of the Massachusetts Attorney General  
One Ashburton Place, 18<sup>th</sup> Floor  
Boston, MA 02108

To DeVry:

Robert Paul, President  
DeVry University, Inc.  
3005 Highland Parkway  
Downers Grove, IL 60515

26. By signing below, the AGO agrees that this AOD shall be in lieu of a civil action or proceeding against DeVry under M.G.L. c. 93A, § 4 regarding the marketing representations referred to in this AOD that occurred prior to the execution of this document.

27. By signing below, DeVry agrees to comply with all of the terms of this AOD. Any violation of this AOD or non-compliance with this AOD may be pursued in a civil action or proceeding under M.G.L. c. 93A hereafter commenced by the AGO.

**DEVRY UNIVERSITY, INC.**

By: 

Robert Paul  
President, DeVry University, Inc.  
3005 Highland Parkway  
Downers Grove, IL 60515-5799  
(630) 515-7770

Dated: 6/30/2017

**COMMONWEALTH OF MASSACHUSETTS  
MAURA HEALEY  
ATTORNEY GENERAL**

By: 

Elizabeth Nsahlai BBO # 688656  
Assistant Attorneys General  
One Ashburton Place, 18th Floor  
Boston, Massachusetts 02108  
617-963-2612

Dated: 6/30/2017



<b>CIVIL ACTION COVER SHEET</b>	DOCKET NUMBER <b>17-2073H</b>	<b>Trial Court of Massachusetts The Superior Court</b>
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<b>PLAINTIFF(S):</b> Commonwealth of Massachusetts <b>ADDRESS:</b> Office of the Attorney General One Ashburton Place, 18th Floor, Boston, MA 02108	<b>COUNTY</b> Suffolk
<b>ATTORNEY:</b> Elizabeth Nsahlai, AAG, Office of the Attorney General <b>ADDRESS:</b> One Ashburton Place, 18th Floor, Boston, MA 02108 BBO: 688656	<b>DEFENDANT(S):</b> DeVry University, Inc. <b>ADDRESS:</b> 3005 Highland Parkway, Downers Grove, IL 60515

**TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)**

CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
E99	Other Administrative Action	X	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**\*If "Other" please describe:** Assurance of Discontinuance pursuant to G.L. c. 93A, section 5

**STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A**

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**

(attach additional sheets as necessary)

A. Documented medical expenses to date:	
1. Total hospital expenses .....	\$ _____
2. Total doctor expenses .....	\$ _____
3. Total chiropractic expenses .....	\$ _____
4. Total physical therapy expenses .....	\$ _____
5. Total other expenses (describe below) .....	\$ _____
<b>Subtotal (A):</b>	<b>\$ _____</b>
B. Documented lost wages and compensation to date .....	\$ _____
C. Documented property damages to dated .....	\$ _____
D. Reasonably anticipated future medical and hospital expenses .....	\$ _____
E. Reasonably anticipated lost wages .....	\$ _____
F. Other documented items of damages (describe below) .....	\$ _____

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 SUPERIOR COURT  
 CIVIL ACTION  
 CLERK'S OFFICE

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

**TOTAL (A-F):\$** N/A

**CONTRACT CLAIMS**

(attach additional sheets as necessary)

Provide a detailed description of claims(s):

**TOTAL: \$** N/A

**Signature of Attorney/Pro Se Plaintiff: X** *Elmsallai* **Date: Jun 30, 2017**

**RELATED ACTIONS:** Please provide the case number, case name, and county of any related actions pending in the Superior Court.

**CERTIFICATION PURSUANT TO SJC RULE 1:18**

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

**Signature of Attorney of Record: X** *Elmsallai* **Date: Jun 30, 2017**