

ATTORNEY GENERAL OF THE STATE OF NEW YORK

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In the Matter of

Career Education Corporation,

Respondent.

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AGREEMENT ON CODE OF CONDUCT

WHEREAS the Office of Attorney General of the State of New York (the "OAG") has commenced an investigation pursuant to Executive Law § 63(12) and General Business Law §§ 349 and 350 and the Office of the Illinois Attorney General ("ILOAG") has commenced an investigation pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.* ("Illinois Consumer Fraud Act") into practices related to higher education loans offered to students and parents (the "Investigation");

WHEREAS in the course of the Investigation the OAG reviewed extensive evidence;

WHEREAS Career Education Corporation ("CEC") has cooperated in the Investigation by voluntarily producing evidence and answering questions relevant to the Investigation;

WHEREAS, as set forth in the findings of fact ("Findings") below, the OAG and the ILOAG assert that the Investigation has revealed that many institutions of higher education and lenders that provide loans to or on behalf of students of those institutions have engaged in certain acts, practices and omissions that violated Executive Law § 63(12) and General Business Law §§ 349 and 350 and the Illinois Consumer Fraud Act, 815 ILCS 505/2;

WHEREAS, as set forth below in section I(B), the OAG and the ILOAG allege that CEC has engaged in certain of the practices that violate these statutes;

WHEREAS CEC does not admit, and expressly denies, that its conduct constituted any violation of law;

WHEREAS CEC has advised the OAG and the ILOAG of its desire to resolve the Investigation through this Agreement on Code of Conduct (the "Agreement");

WHEREAS CEC, without admitting the OAG's and the ILOAG's Findings and assertions made below, has agreed to alter its practices with respect to education loans, and to adopt a Code of Conduct for education loan practices;

NOW THEREFORE, the OAG and the ILOAG, based upon the Investigation, makes the following Findings:

I. FINDINGS OF THE ATTORNEY GENERAL

A. Industry-Wide Findings

The Investigation has covered many lenders and institutions of higher education. Based on the Investigation, the OAG and the ILOAG make the following findings as to common practices found throughout the higher education loan industry.

1. Many students and their families are unable to pay all of the expenses appurtenant to higher education. In addition to grants, scholarships and work-study programs, significant numbers of students and their parents turn to loans to cover what they cannot otherwise afford to pay. Higher education loans constitute an \$85 billion per year industry.

2. Higher education loans take several forms. By dollar amount, most loans are borrowed by students themselves and are federally regulated and guaranteed. The federal government has created a program for providing loans, know as "Stafford Loans," to students.

The interest rate for Stafford Loans is set by the federal government. Lenders, however, have wide latitude in offering benefits to borrowers, including discounts off of that interest rate.

3. Other federal loans, known as “PLUS Loans” are offered to students’ parents to cover higher education expenses incurred by their children and to graduate students. Like Stafford Loans, the federal government sets the interest rates for PLUS Loans and lenders have wide latitude in offering borrower benefits.

4. In addition to the federal loans described above, parents or students can obtain private “alternative loans” to cover educational expenses not covered by other financial aid. The federal government does not sponsor, subsidize or guarantee alternative loans. Accordingly, the interest rate and other terms of the loans are determined by the borrower’s creditworthiness and market forces.

i. “Preferred Lender” Lists

5. In response to the staggering array of lenders that offer each of the various types of education loans, some institutions of higher education have created lists of recommended lenders. Institutions of higher education that use such lists usually have separate lists for each of the several types of education loans available. In some instances, such lender lists contain dozens of potential lenders that meet certain minimal requirements. In other cases, institutions of higher education use the lists to recommend a handful of lenders, or even a single lender, as “preferred.”

6. The lenders listed on an institution of higher education’s list of preferred lenders typically receive up to 90% of the loans taken out by the institution’s students and their parents. Despite the significant role that these lists play in determining the lenders from which students and parents borrow, many institutions did not inform their student and parent borrowers about

the process and criteria used to formulate the lists of recommended or preferred lenders. Nor did they disclose the potential conflicts of interest on the part of their financial aid offices, which typically compile the preferred lender lists. These conflicts of interest may arise from: lender-funded travel expenses for institutions' financial aid officials to attend meetings and seminars in attractive locations; the appointment of the institutions' financial aid officials to "Boards" or "Committees" sponsored by the lenders; the lenders' provision of staff and services to the institutions; the lenders' provision of "Opportunity Loans;" and revenue sharing. These practices are described below.

ii. Revenue Sharing

7. In the context of the education loan business, revenue sharing refers to an arrangement whereby a lender pays an institution of higher education a percentage of the principal of each loan directed toward the lender from a borrower at the institution, often in exchange for the institution of higher education placing the given lender on the institution of higher education's preferred lender lists. This type of arrangement is prohibited by federal regulation in the context of Stafford Loans, PLUS Loans and other federal loan programs; it occurs only in the alternative loan segment of the industry.

8. The practice of revenue sharing creates a conflict of interest on the part of the institutions of higher education. When and if the institutions direct students to lenders, they should do so based solely on the best interests of the student and parents who may take out loans from the lenders; yet, the institutions have a financial interest in the selection of the lenders by the student and parents. If the student and parents select a lender with which the institution has a revenue sharing contract – even if another lender or other financial aid resource would be more suitable for the student or parents – the institution receives a financial benefit.

iii. *Denial of Choice of Lender*

9. Some institutions of higher education have neglected to make clear that borrowers have a right to select the Stafford Loan and PLUS Loan lender of their choice, irrespective of whether the lender appears on any preferred lender lists. In the most egregious cases, institutions have gone so far as to abrogate this right, by stating or strongly implying that the student and parents were limited to the lenders on the list, or even to a single lender.

iv. *Exclusive Consolidation Loan Marketing Agreements*

10. Former students may wish to combine their various education loans into a single package, called a "consolidation loan." Some institutions of higher education have entered into agreements with the providers of such consolidation loans pursuant to which the institution agrees to encourage its former students to consolidate the former students' loans with a particular lender and no other. In exchange, the institution secures revenue sharing or other benefits that inure directly or indirectly to the institution rather than the borrower. Once again, the institution is in a conflicted position because its advice and encouragement may be influenced by its financial self-interest.

v. *Undisclosed Sales of Loans to Another Lender*

11. In many instances, institutions of higher education place several lenders on the institutions' lists of preferred lenders causing the potential borrower to think that the lender list represents a real choice of options. But, the choice is illusory when, as sometimes occurs, all or a number of the lenders on a lender list have arranged with each other to sell any loans to one of the lenders immediately after one of the other complicit lenders disburses a loan.

vi. *Opportunity Loans*

12. Lenders have entered into undisclosed agreements with institutions of higher education to provide what are referred to as "Opportunity Loans." These agreements provide that the lender will make loans up to a specified aggregate amount to students with poor or no credit history, or international students, who the lender claims would otherwise not be eligible for the lender's alternative loan program. In exchange for the lender's commitment to make such loans, the institution may provide concessions or promises to the lender that may prejudice other borrowers.

B. Findings as to CEC

13. Career Education Corporation is a foreign corporation with a principal place of business located at 2895 Greenspoint Parkway, Suite 600, Hoffman Estates, Illinois. CEC operates post-secondary educational institutions within New York State and elsewhere.

14. Two Lending Institutions, as defined below, which have made private, alternative loans to CEC students, have made donations to the Career Education Scholarship Fund, a section 501(c)(3) entity, in the aggregate amount of \$21,200.00. These funds were not made available in consideration of placement of the Lending Institutions on a preferred lender list, or for reaching agreed loan volumes in any lending program, or in return for any other thing of value.

C. Violations

15. The OAG and the ILOAG allege that the acts, practices, and omissions set forth in section I(B) on the part of CEC created a conflict of interest and violated Executive Law § 63(12) and General Business Law §§ 349 and 350 and the Illinois Consumer Fraud Act, 815 ILCS 505/2.

II. AGREEMENT

IT NOW APPEARING THAT CEC, while it denies any conflict of interest or violation of the laws cited in this Agreement, desires to settle and resolve the Investigation without admitting the OAG's and the ILOAG's Findings;

AND IT FURTHER APPEARING THAT CEC agrees to accept a Code of Conduct promulgated by the OAG and the ILOAG for institutions of higher education involved in providing and servicing education loans or advising students or their parents with respect to education loans;

NOW, THEREFORE, the OAG, the ILOAG and CEC hereby enter into the Agreement, pursuant to Executive Law § 63(15) and the Illinois Consumer Fraud Act, 815 ILCS 505/6.1, as follows:

A. Code of Conduct

i. Prohibition of Certain Remuneration to CEC Employees

16. CEC shall require and ensure that no officer, trustee, director, employee, or agent of CEC accepts anything of more than nominal value on his or her own behalf or on behalf of another during any 12 month period from or on behalf of a Lending Institution, except that this provision shall not be construed to prohibit any officer, trustee, director, employee, or agent of CEC from conducting non-CEC business with any Lending Institution. As used in the preceding sentence and throughout the Agreement, a Lending Institution is defined as:

- (a) Any entity that itself or through an affiliate engages in the business of making loans to students, parents or others for purposes of financing higher education expenses or that securitizes such loans; or
- (b) Any entity, or association of entities, that guarantees education loans; or

- (c) Any industry, trade or professional association that receives money from any entity described above in subsections a and b.

Nothing in this provision or throughout the Agreement shall prevent CEC from holding membership in any nonprofit professional association.

17. The prohibition set forth in the previous paragraph shall include, but not be limited to, a ban on any payment or reimbursement by a Lending Institution to a CEC employee for lodging, meals, or travel to conferences or training seminars.

ii. Limitations on CEC Employees Participating on Lender Advisory Boards

18. CEC shall prohibit any officer, trustee, director, employee, or agent of CEC from receiving any remuneration for serving as a member or participant of an advisory board of a Lending Institution, or receiving any reimbursement of expenses for so serving, provided, however, that participation on advisory boards that are unrelated in any way to higher education loans shall not be prohibited by the Agreement.

iii. Prohibition of Certain Remuneration to CEC

19. CEC may not accept on its own behalf anything of value from any Lending Institution in exchange for any advantage or consideration provided to the Lending Institution related to its education loan activity. This prohibition shall include, but not be limited to, (i) "revenue sharing" by a Lending Institution with CEC, (ii) CEC's receipt from any Lending Institution of any computer hardware for which CEC pays below-market prices and (iii) printing costs or services. Notwithstanding anything else in this paragraph, CEC may accept assistance as contemplated in 34 CFR 682.200(b)(definition of "Lender")(5)(i).

iv. Preferred Lender Lists

20. In the event that CEC promulgates a list of preferred or recommended lenders or similar ranking or designation (“Preferred Lender List”), then

- (a) Every brochure, web page or other document that sets forth a Preferred Lender List must clearly disclose the process by which CEC selected lenders for said Preferred Lender List, including but not limited to the criteria used in compiling said list and the relative importance of those criteria; and
- (b) Every brochure, web page or other document that sets forth a Preferred Lender List or identifies any lender as being on said Preferred lender List shall state in the same font and same manner as the predominant text on the document that students and their parents have the right and ability to select the education loan provider of their choice, are not required to use any of the lenders on said Preferred Lender List, and will suffer no penalty for choosing a lender that is not on said Preferred Lender List.
- (c) CEC’s decision to include a Lending Institution on any such list and CEC’s decision as to where on the list the Lending Institution’s name appears shall be determined solely by consideration of the best interests of the students or parents who may use said list without regard to the pecuniary interests of CEC;
- (d) The constitution of any Preferred Lender List shall be reviewed no less than annually;
- (e) No Lending Institution shall be placed on any Preferred Lender List unless the said lender provides assurance to CEC and to student and parent borrowers who take out loans from said Lending Institution that the advertised benefits

upon repayment will continue to inure to the benefit of student and parent borrowers regardless of whether the Lending Institution's loan are sold;

(f) No Lending Institution that has an agreement to sell its loans to another unaffiliated Lending Institution shall be included on any Preferred Lender List unless such agreement is disclosed therein in the same font and same manner as the predominant text on the document in which the Preferred Lender List appears;

(g) No Lending Institution shall be placed on any one of CEC's Preferred Lender Lists or in favored placement on any one of CEC's Preferred Lender Lists for a particular type of loan, in exchange for benefits provided to CEC or to CEC's students in connection with a different type of loan;

v. *Prohibition of Lending Institutions' Staffing of CEC's Financial Aid Offices*

21. CEC shall ensure that no employee or other agent of a Lending Institution is ever identified to students or prospective students of CEC or their parents as an employee or agent of CEC. No employee or other agent of a Lending Institution may staff CEC's financial aid offices at any time.

vi. *Proper Execution of Master Promissory Notes*

22. To the extent that CEC links or otherwise directs potential borrowers to any electronic Master Promissory Notes or other loan agreements that do not allow students to enter the lender code or name for any lender offering the relevant loan at that guarantee agency, then CEC shall undertake to use its best efforts so as to allow students to enter such information electronically or otherwise. CEC's link or direction referred to in the prior sentence shall comply with paragraphs 20(a) and (b) herein.

vii. *School as Lender*

23. If CEC participates in the "School as Lender" program under 20 U.S.C. § 1085(d)(1)(E), CEC may not treat School As Lender loans any differently than if the loans originated directly from another lender; all sections of the Agreement apply equally to such School as Lender loans as if the loans were provided by another lender.

viii. *Prohibition of Opportunity Loans*

24. CEC shall not arrange with a Lending Institution to provide any Opportunity Loans as defined above in section I(A)(vi), if the provision of such Opportunity Loans prejudices any other borrower.

B. Consumer Education Program Fund

25. Within 30 days of the effective date of the Agreement, CEC will pay to the OAG the sum of \$21,200.00, which shall use the funds to create a national consumer education program for high school seniors and their parents.

C. Scope of the Agreement

26. Except as provided below, the Agreement precludes any action that the OAG and the ILOAG could commence against CEC or its affiliates and their respective current and former officers, directors, trustees and employees for the acts, practices, and omissions listed in section I(B) of the Agreement; provided however, that nothing contained in the Agreement shall be construed to cover claims of any type by any other state agency or any claims that may be brought by the OAG and/or the ILOAG to enforce CEC's obligations arising from or relating to the provisions contained in the Agreement. The Agreement shall not prejudice, waive or affect any claims, rights or remedies of the OAG and/or the ILOAG with respect to any person, other than CEC and its affiliates and their current and former officers, directors, trustees and

employees, all of which claims, rights, and remedies are expressly preserved, nor shall the Agreement create any rights on behalf of persons not parties to the Agreement. The Agreement does not preclude any action that the OAG and/or ILOAG may take for acts, practices, or omissions not listed in the Findings section of the Agreement, even if such acts, practices, or omissions constitute a part of the Investigation.

D. Cooperation

27. CEC shall continue to cooperate fully and promptly with the OAG and the ILOAG with regard to the Investigation and any related proceedings and actions. CEC shall use its best efforts to ensure that all of its officers, directors, employees and agents also fully and promptly cooperate with the OAG and the ILOAG in the Investigation and any related proceedings and actions, subject to their individual rights and privileges.

28. Cooperation shall include without limitation:

- (a) Production, voluntarily and without service of subpoena, by CEC of any information and all documents or other tangible evidence related to education loan practices reasonably requested by the OAG and the ILOAG, and any compilations or summaries of information or data that the OAG and the ILOAG reasonably requests be prepared, subject to recognized privileges and protections for confidential information;
- (b) Using CEC's best efforts to cause CEC's officers, directors, employees and agents to attend any proceedings at which the presence of any such persons is requested by the OAG and the ILOAG and having such persons answer any and all inquiries that may be put by the OAG and the ILOAG to any of them at any proceedings or otherwise ("proceedings" include but are not limited to

any meetings, interviews, depositions, hearings, grand jury hearing, trial or other proceedings) voluntarily, and without service of a subpoena, subject to their individual rights and privileges; and

- (c) Fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession relevant to all inquiries made by the OAG and the ILOAG in connection with this Investigation concerning any alleged fraudulent or criminal conduct by anyone whatsoever about which CEC, its officers, trustees, directors, employees and agents may have any knowledge or information, subject to recognized privileges and protections for confidential information.

29. In the event any document otherwise required to be provided under the terms of the Agreement is withheld or redacted on grounds of privilege, work-product or other legal doctrine, a statement shall be submitted in writing by CEC indicating: the type of document; the date of the document; the author and recipient of the document; the general subject matter of the document; the reason for withholding the document; and the Bates number or range of the withheld document. The OAG and/or the ILOAG may challenge such claim in any forum of its choice and may, without limitation, rely on all documents or communications theretofore produced or the contents of which have been described by CEC, its officers, directors, employees, or agents.

30. CEC shall not jeopardize the confidentiality of any aspect of the Investigation, including sharing or disclosing evidence, documents, or other information with others during the course of the investigation without the consent of the OAG and the ILOAG. Nothing herein

shall prevent CEC from conferring with counsel or consultants, issuing public statements, from providing such evidence or information to other regulators or as otherwise required by law.

E. Miscellaneous Provisions

31. Pursuant to Executive Law § 63(15) and the Illinois Consumer Fraud Act, the Agreement serves as an assurance of discontinuance. As such, evidence of a violation of the Agreement by CEC shall constitute prima facie proof of a violation of Executive Law § 63(12) and General Business Law §§ 349 and 350 and the Illinois Consumer Fraud Act, 815 ILCS 505/1 *et seq.* in any civil action or proceeding subsequently commenced by the OAG or the ILOAG.

32. If CEC breaches any of the obligations described herein, the OAG and/or the ILOAG may in its sole discretion terminate the Agreement upon written notice to CEC. In such event, any statute of limitations or other time-related defense applicable to the subject of the Agreement and any claims arising from or relating thereto are tolled from and after the last execution date of the Agreement and the Agreement shall in no way bar or otherwise preclude the OAG and/or the ILOAG from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Investigation, against CEC or from using in any way any statements, documents or other materials produced or provided by CEC after commencement of the Investigation, including, without limitation, any statements, documents or other materials provided for purposes of settlement negotiations.

33. The Agreement and any dispute related thereto shall be governed by the laws of the State of New York and the State of Illinois without regard to any conflicts of laws principles.

34. No failure or delay by the OAG and the ILOAG in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise

thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein shall be cumulative.

35. CEC enters into the Agreement voluntarily and represents that no threats, offers, promises or inducements of any kind have been made by the OAG and the ILOAG or any member, officer, employee, agent or representative of the OAG or the ILOAG to induce CEC to enter into the Agreement other than as described herein.

36. The Agreement may be changed, amended or modified only by a writing signed by all parties hereto.

37. The Agreement constitutes the entire agreement between the OAG, the ILOAG and CEC and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of the Agreement.

38. The Agreement shall be binding upon CEC and its successors, assigns, and/or purchasers of all or substantially all its assets.

39. The Agreement and its provisions shall be effective on the date that it is signed by an authorized representative of the OAG and the ILOAG, except for the provisions contained in sections II(A)(iv) and II(A)(vi) which shall become effective on June 1, 2007.

40. The Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

41. Nothing contained herein shall be construed as relieving CEC of its obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of the Agreement be deemed permission to engage in any act or practice prohibited by such laws, regulations or rules.

42. The acceptance of the Agreement by the OAG and the ILOAG shall not be deemed approval by the Attorney Generals of any of CEC's business practices, and CEC shall make no representation to the contrary. CEC's execution of the Agreement is not an admission of liability.

43. Unless otherwise provided, all notices as required by the Agreement shall be provided as follows:

To the OAG:

Melvin Goldberg, Assistant Attorney General
Office of the New York State Attorney General
Bureau of Consumer Frauds & Protection
120 Broadway, 3rd Floor
New York, New York 10271
tel. (212) 416-8296
fax. (212) 416-6003

To the ILOAG:

Deborah Hagan, Consumer Protection Division Chief
Office of the Illinois Attorney General
Consumer Fraud Bureau
500 South Second Street
Springfield, IL 62706

To CEC:

Career Education Corporation
Office of General Counsel
2895 Greenspoint Parkway, Suite 600
Hoffman Estates, Illinois 60169
Tel (847) 585-2600
Fax (847) 585-2640

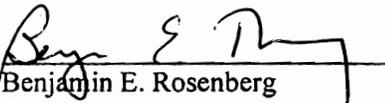
44. Nothing in the Agreement shall be construed to prevent any individual from pursuing any right or remedy at law which any consumer may have against CEC.

45. CEC shall submit to the Attorney Generals, on or before August 15, 2007, an affidavit, subscribed to by an officer of CEC authorized to bind CEC, setting forth its compliance with the provisions of the Agreement.

WHEREFORE, the signatures evidencing assent to this agreement have been affixed hereto on the dates set forth below.

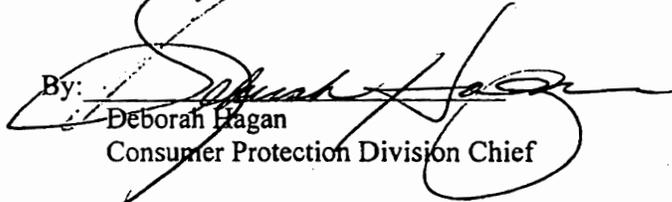
ANDREW M. CUOMO
Attorney General of the State of New York

Dated: April 16, 2007

By: 
Benjamin E. Rosenberg
Chief Trial Counsel

LISA MADIGAN
Attorney General of the State of Illinois

Dated: April 16, 2007

By: 
Deborah Hagan
Consumer Protection Division Chief
Career Education Corporation

Dated: April 13, 2007

By: 
Jeremy Wheaton
Senior Vice President of Operations,
Shared Services

ACKNOWLEDGMENT

STATE OF Illinois)
COUNTY OF Cook) :s.s.

On this the ___ day of April, 2007, before me personally came Jeremy Wheaton, known to me, who, being duly sworn by me, did depose and say that she/he is Senior Vice President Operations, Shared Services of Career Education Corporation and is duly authorized to execute this document on behalf of Career Education Corporation, and that she/he signed her/his name by like authorization.

Sherrin M. Weissman
Notary Public

