

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BUREAU OF CONSUMER)
FINANCIAL PROTECTION,)
Plaintiff,)
v.) Case No. 1:19-cv-2397-JRS-DLP
STUDENT CU CONNECT CUSO,)
LLC,)
Defendant.)

[PROPOSED] STIPULATED FINAL JUDGMENT AND ORDER

Plaintiff, the Bureau of Consumer Financial Protection (the “**Bureau**”), commenced this civil action (the “**Action**”) on June 14, 2019 to obtain relief from Defendant, Student CU Connect CUSO, LLC (the “**CUSO**”). The Bureau brought its Complaint (the “**Complaint**”) under sections 1031(a), 1036(a), 1054(a), and 1055 of the Consumer Financial Protection Act of 2010 (the “**CFPA**”), 12 U.S.C. §§ 5531(a), 5536(a), 5564(a), and 5565, alleging violations of section 1036(a)(3) of the CFPA, 12 U.S.C. § 5536(a)(3), which prohibits any person from providing substantial assistance to a covered person or service provider engaging in unfair, deceptive, or abusive acts or practices.

The Bureau and the CUSO (together, the “**Parties**”) have agreed to settle the Bureau’s claims against the CUSO and, by and through their counsel, request that

this Court enter this Stipulated Final Judgment and Order (this “**Order**”).

DEFINITIONS

In addition to the definitions set forth in the provisions above, the following definitions apply to this Order:

1. **“Affected Consumer”** means any student borrower who received a Loan (as defined below) that was not paid in full as of the Effective Date (as defined below).
2. **“Consumer Information”** means identifying information obtained by the CUSO about any individual consumer in connection with the Loan Program (as defined below), including that consumer’s name, address, telephone number, email address, social security number, or any data that enables access to any account of that consumer (including a credit card, bank account, or other financial account). Consumer Information does not include any compilation or summary of Consumer Information if such compilation or summary does not include identifying information of individual consumers.
3. **“Consumer Reporting Agency”** has the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).
4. **“Effective Date”** means the date on which this Order is issued.

5. **“Enforcement Director”** means the Assistant Director for the Office of Enforcement for the Bureau, or his/her delegatee.
6. **“ITT”** means ITT Educational Services, Inc.
7. **“Loan”** means one of the private student loans entered into by or originated to students of ITT schools by a third party pursuant to the Loan Program (as defined below), and currently owned by the CUSO.
8. **“Loan Program”** means the private student loan program established by ITT and the CUSO together with other parties, pursuant to certain agreements, which provided funding for students attending ITT schools.
9. **“Redress Plan”** means the comprehensive written plan for the CUSO’s implementation of this Order.
10. **“Servicer”** means the servicer of one or more of the Loans.

FINDINGS

11. This Court has jurisdiction over the Parties and the subject matter of the Action.
12. The Complaint alleges claims upon which, if the Bureau were to prevail, relief may be granted under the CFPA. The relief provided in this Order is appropriate and available pursuant to sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565.

13. The Parties agree to entry of this Order, without adjudication of any issue of fact or law, to settle and to resolve all matters arising from the conduct alleged in the Complaint.
14. The CUSO neither admits nor denies any of the allegations in the Complaint except that, for the purposes of this Order, the CUSO admits the facts necessary to establish this Court's jurisdiction over it and over the subject matter of the Action.
15. The Parties acknowledge that the discontinuance of collection of the Loans, as described in this Order, is based on alleged infirmities in the original creation of the Loans, stemming from alleged unlawful actions or other alleged misconduct, perpetrated at the time of the Loans' origination, that allegedly render the Loans unenforceable. The cessation of collection is for the purpose of correcting the alleged unlawful business practices and alleged misconduct.
16. The CUSO is an entity that was created for the Loan Program. In connection with the Loan Program, the CUSO owns the Loans and, subject to certain conditions and limitations contained in certain Loan Program agreements, provides for the servicing of the Loans by the Servicer.
17. The CUSO has not acquired, and will not acquire, loans other than the

Loans, does not conduct business other than Loan Program business, and intends to cease conducting all business upon the completion of its obligations as set out in this Order. Given that the CUSO will not conduct any additional business, the Bureau has agreed not to seek injunction, compliance, and reporting requirements beyond those specified in this Order.

18. The CUSO waives service under Rule 4(d) of the Federal Rules of Civil Procedure and waives all rights to seek judicial review of or otherwise to challenge or to contest the validity of this Order. The CUSO also waives any claim it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of the Action to the date of this Order.
19. Entry of this Order is in the public interest.

ORDER

I.

**ORDER TO CEASE AND DESIST AND
TO TAKE OTHER AFFIRMATIVE ACTION**

IT IS ORDERED that:

20. As of the Effective Date, the CUSO will:

- a. Cease all collections activities and cease accepting payments from consumers related to any Loan; and
- b. Take no further action to enforce or to collect any Loan.
- c. Notwithstanding the requirements of subparagraphs (a) and (b) of this Paragraph, the CUSO will not be regarded as in violation of this Order if it sends out routine statements or notices that could be considered collection activity within 20 days after the Effective Date; nor will the CUSO be regarded as in violation of this Order in the event that a payment from a consumer related to any Loan is discovered to have been accepted or processed after the Effective Date, provided that the CUSO, or the Servicer acting on the CUSO's behalf, makes efforts to return the payment to the consumer as specified in the Redress Plan.

21. Within 30 days of the Effective Date, the CUSO will discharge and cancel

all outstanding balances of all Affected Consumers' Loan accounts, including associated fees, charges, and interest.

22. Within 30 days of the Effective Date, the CUSO will submit written requests to all Consumer Reporting Agencies to which the CUSO or the Servicer has reported information about the Affected Consumers' Loans, directing those Consumer Reporting Agencies to delete the consumer trade lines associated with the Affected Consumers' Loans by updating those consumer trade lines with the appropriate codes to reflect that each of those consumer trade lines has been deleted and, if an explanation is required, with the codes referencing a negotiated court settlement.
23. Within 30 days of the Effective Date, the CUSO will send notifications to the Affected Consumers, by first class mail to the most recently available postal address contained in the Servicer's system of record for each Affected Consumer, informing them of the new status of their Loans, and the requested updated status of the credit reporting related to their Loans, consistent with this Order.
24. Except as and to the extent provided herein and in the Redress Plan, the CUSO will relinquish all dominion, control, and title to all Loan payments made after the Effective Date. No part of those funds may be retained by the

CUSO.

25. In the event that Loan payments made after the Effective Date are unreturnable funds as defined in the Redress Plan, the CUSO will pay any such funds to the Bureau, by wire transfer to the Bureau or to the Bureau's agent, according to the Bureau's wiring instructions. The Bureau may make continued attempts to distribute those funds to consumers. If the Bureau determines, in its sole discretion, that such additional distribution is wholly or partially impracticable or otherwise inappropriate, or if funds remain after the additional distribution is completed, the Bureau will deposit the remaining unreturnable funds with the United States Treasury as a miscellaneous receipt. The CUSO will have no right to challenge any actions that the Bureau or its representatives may take under this Section.
26. Upon the Effective Date, the CUSO promptly will begin implementation of the Redress Plan. The Enforcement Director has reviewed the Redress Plan and has made a determination of non-objection. The CUSO will implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.
27. The Redress Plan, among other things:
 - a. Specifies how the CUSO will notify Affected Consumers, consistent

with this Order, of (i) the new status of their Loans and (ii) the request to the Consumer Reporting Agencies for updated status of the credit reporting related to their Loans.

- b. Provides an exemplar of written communications to be sent by the CUSO or the Servicer to Affected Consumers regarding their Loans or the redress provided in this Order.
 - c. Identifies a Servicer telephone number that will be active for 150 days after the Effective Date to assist Affected Consumers who have questions about the status of their Loan accounts, and describes the types of questions to which the Servicer will be prepared to respond.
 - d. Specifies the efforts that the CUSO will undertake to prevent any payment made on a Loan from being accepted after the Effective Date, and the methods by which the CUSO will attempt to return to the payor any payment received after the Effective Date.
28. The CUSO may not condition the cancellation or discharge of debt, or the return of any payment made after the Effective Date, on any Affected Consumer or any person who made payments on the Loans waiving any right.

II.

CONSUMER INFORMATION

IT IS FURTHER ORDERED that:

29. The CUSO, and its officers, employees, representatives, and agents who receive actual notice of this Order, whether acting directly or indirectly, may not disclose, use, or benefit from Consumer Information, except as follows:
- a. Consumer Information may be disclosed if requested by a government agency or required by law, regulation, or court order;
 - b. Consumer Information may be used to effectuate and to carry out the obligations set forth in this Order; and
 - c. The restriction on the use of Consumer Information does not apply to the CUSO's participating credit unions.

III.

REPORTING REQUIREMENTS

IT IS FURTHER ORDERED that:

30. The CUSO will notify the Bureau of any development that may affect its compliance with obligations arising under this Order, including but not limited to dissolution, assignment, sale or merger of the CUSO, or other action that would result in the emergence of a successor entity to the CUSO;

the creation of a subsidiary, parent, or affiliate of the CUSO that engages in any acts or practices subject to this Order; the filing of any bankruptcy or insolvency proceeding by or against the CUSO; or a change in the CUSO's name or address. The CUSO will provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.

31. Within 120 days of the Effective Date, the CUSO will submit to the Enforcement Director an accurate written compliance progress report that:
 - a. Describes in detail the manner and form in which the CUSO has complied with this Order; and
 - b. Attaches a copy of each Order Acknowledgment obtained under Section IV of this Order, unless previously submitted to the Bureau.

IV.

ORDER DISTRIBUTION AND ACKNOWLEDGEMENT

IT IS FURTHER ORDERED that:

32. Within 30 days of the Effective Date, the CUSO will deliver a copy of this Order to the Servicer and to the CUSO's board, as well as to any CUSO manager, employee, service provider, or other agent or representative who has responsibilities related to compliance with this Order.

33. The CUSO will secure a signed and dated statement acknowledging receipt of a copy of this Order, ensuring that any electronic signatures comply with requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons and entities receiving a copy of this Order under Paragraph 32 hereof.

V.

RECORDKEEPING

IT IS FURTHER ORDERED that:

34. The CUSO will maintain, until the first to occur of (a) the expiration of three years from the Effective Date or (b) the CUSO's dissolution, all documents and records necessary to demonstrate full compliance with this Order, including all submissions made to the Bureau pursuant to Paragraph 31(a) hereof.
35. Subject to the retention limitations provided in Paragraph 34 hereof, the CUSO must make the documents identified in Paragraph 34 hereof available to the Bureau upon the Bureau's request.

VI.

NOTICES

IT IS FURTHER ORDERED that:

36. Unless otherwise directed in writing by the Bureau, the CUSO will provide all submissions, requests, communications, or other documents relating to this Order that need to be sent to the Bureau in writing, with the subject line, “Re: Student CU Connect CUSO, LLC, Case No. 1:19-CV-2397 (S.D. Ind.),” and will send those materials by overnight courier or first class mail to the below address and contemporaneously by email to:

Enforcement_Compliance@cfpb.gov

Assistant Director for Enforcement
Bureau of Consumer Financial Protection
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington, D.C. 20552

VII.

COOPERATION WITH THE BUREAU

IT IS FURTHER ORDERED that:

37. Until the CUSO’s dissolution, the CUSO will cooperate fully with the Bureau in this matter and in any Bureau investigation related to or associated with the conduct alleged in the Complaint. The CUSO will provide truthful

and complete non-privileged, non-work product information, evidence, and testimony. The CUSO will appear and will cause its officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau reasonably may request upon 10 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

38. Nothing in this Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6, examinations under Federal Rules of Bankruptcy Procedure 2004, or any other discovery device available under federal statute or the Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, subject to the CUSO's ability to seek a protective order.

VIII.

RELEASE

IT IS FURTHER ORDERED that:

39. The Bureau releases and discharges the CUSO from all potential liability for violations of law that the Bureau has or might have asserted based on the practices described in the Complaint, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the

Effective Date. The Bureau may use the practices described in the Complaint in future enforcement actions against the CUSO, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with this Order, or to seek penalties for any violations of this Order.

40. This Order will not prejudice or otherwise negatively affect the Bureau's claims against any other party. Nothing in this Order will be deemed to preclude the Bureau from pursuing claims against other parties based on the practices described in the Complaint.

IX.

MISCELLANEOUS

IT IS FURTHER ORDERED that:

41. Each of the Parties is responsible for its own costs and expenses, including, without limitation, attorneys' fees.
42. Notwithstanding the provisions of Section X hereof, any time limit for performance fixed by this Order may be extended by mutual written agreement of the Parties and without further Court approval. Additionally,

details related to the administration of Sections III through VIII of the Order may be modified by written agreement of the Parties and without further Court approval. Any other modification to this Order may be made only upon approval of the Court, upon motion by either of the Parties.

X.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that:

43. This Court will retain jurisdiction over matters pertaining to this Order for purposes of its construction, modification, and enforcement.

IT IS SO ORDERED.

Dated this __ day of _____, 2019.

UNITED STATES DISTRICT JUDGE