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FEDERAL TRADE COMMISSION

15  
16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA

18 FEDERAL TRADE COMMISSION, ) Case No.  
19 )  
20 Plaintiff, )  
21 v. ) COMPLAINT FOR PERMANENT  
22 ) INJUNCTION AND OTHER  
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1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

2 1. The FTC brings this action under Section 13(b) of the Federal Trade  
3 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive  
4 relief, rescission or reformation of contracts, restitution, the refund of monies paid,  
5 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts  
6 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7 **JURISDICTION AND VENUE**

8 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§  
9 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

10 3. Venue is proper in this district under 28 U.S.C. § 1391 (b)(2) and  
11 (c)(2), and 15 U.S.C. § 53(b).

12 **PLAINTIFF**

13 4. The FTC is an independent agency of the United States Government  
14 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC  
15 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
16 affecting commerce.

17 5. The FTC is authorized to initiate federal district court proceedings, by  
18 its own attorneys, to enjoin violations of the FTC Act, and to secure such equitable  
19 relief as may be appropriate in each case, including rescission or reformation of  
20 contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten  
21 monies. 15 U.S.C. § 53(b).

22 **DEFENDANTS**

23 6. Defendant DeVry Education Group Inc. (DEG) is a publicly traded  
24 Delaware corporation with its principal place of business at 3005 Highland  
25 Parkway, Downers Grove, Illinois. DEG was formerly known as DeVry Inc. DEG  
26 transacts or has transacted business in this district and throughout the United  
27 States. At all times material to this Complaint, with respect to the acts and  
28 practices of DeVry University, Inc. and DeVry/New York Inc. that are described

1 below, DEG dominated or controlled those acts and practices, knew of or approved  
2 those acts and practices, and/or benefitted from those acts and practices. DEG,  
3 DeVry University, Inc., and DeVry/New York Inc. are collectively referred to in  
4 this Complaint as “DeVry” or “Defendants.”

5 7. Defendant DeVry University, Inc. (DVU), a Delaware corporation, is  
6 a subsidiary of DEG with its principal place of business at 3005 Highland  
7 Parkway, Downers Grove, Illinois. DVU transacts or has transacted business in  
8 this district and throughout the United States. At all times material to this  
9 Complaint, acting alone or in concert with others, DVU has advertised, marketed,  
10 distributed, or sold educational products and services to consumers throughout the  
11 United States.

12 8. Defendant DeVry/New York Inc. (DeVry New York), a Delaware  
13 corporation sometimes doing business as DeVry College of New York, is a  
14 subsidiary of DEG, with its principal place of business at 3005 Highland Parkway,  
15 Downers Grove, Illinois. At all times material to this Complaint, acting alone or in  
16 concert with others, DeVry New York has advertised, marketed, distributed, or  
17 sold educational products and services to consumers.

### 18 **COMMERCE**

19 9. At all times material to this Complaint, Defendants have maintained a  
20 substantial course of trade in or affecting commerce, as “commerce” is defined in  
21 Section 4 of the FTC Act, 15 U.S.C. § 44.

### 22 **BUSINESS ACTIVITIES**

#### 23 ***Background***

24 10. DeVry operates DVU, a private, for-profit postsecondary educational  
25 institution, which currently has more than 50 campuses throughout the United  
26 States, and at times has had as many as 96 campuses. DVU also offers online  
27 classes and degree programs. DVU’s predecessor, DeVry Institute of Technology,  
28 began offering bachelor’s degrees in 1970. DVU comprises five colleges, as well

1 as a graduate school of business. More than ten majors and 40 specializations are  
2 available. Annual new-student enrollment between 2008 and 2014 ranged from  
3 approximately 29,000 to 49,000. Since 1975, more than 870,000 students have  
4 enrolled at DVU, and approximately 278,000 undergraduate students have  
5 obtained degrees from DVU.

6 11. DVU tuition is \$609 for each credit hour for new students and \$365  
7 for each credit hour in excess of seven credit hours for continuing students.  
8 According to DEG's 2015 10-K filing with the Securities and Exchange  
9 Commission, based upon current tuition rates, a full-time student enrolled in the  
10 five-term undergraduate network systems administration associate degree program  
11 will pay total tuition of \$39,585 and a full-time student enrolled in the eight-term  
12 undergraduate business administration program will pay total tuition of \$75,516.  
13 Most DVU students do not attend full-time, and the total cost for a part-time  
14 student is higher than the cost for a full-time student.

15 12. DEG's total gross revenues between 2008 and mid-2015 exceeded  
16 \$14.5 billion. DVU's gross revenues between 2008 and mid-2015 exceeded \$8.6  
17 billion.

18 13. In each fiscal year between and including 2011 and 2014, DVU spent  
19 over \$135 million on the advertising, marketing, or other promotion of DVU's  
20 educational products and services.

### 21 ***Overview***

22 14. Through the use of English and Spanish-language advertisements and  
23 other marketing materials, and during sales pitches with prospective students,  
24 Defendants have made deceptive representations about the benefits of obtaining a  
25 degree from DVU.

26 15. Defendants have advertised and promoted DVU's degree programs  
27 through television commercials, DVU's website, YouTube advertisements, radio  
28 spots, brochures, print advertisements, Facebook, Twitter, sales pitches with

1 prospective students, and other advertising and promotional materials. DeVry's  
2 target audience includes, but is not limited to, high-school students and current and  
3 former members of the military.

4 16. One of the messages of Defendants' advertisements and recruitment  
5 efforts is that obtaining a degree from DVU is highly likely to result in obtaining a  
6 desirable job soon after graduating—a well-paying, career-oriented job in the  
7 student's chosen field of study.

8 17. Among other methods, Defendants convey this message by  
9 representing that, as a result of obtaining a DVU degree, 90% of DVU graduates  
10 who were actively seeking employment landed or obtained new jobs in their field  
11 of study within six months of graduation. In some instances when Defendants  
12 make this representation, they claim this statistic applies to DVU graduates from a  
13 recent year, while in other instances, Defendants claim this statistic applies to all  
14 graduates since 1975, or "for more than 30 years." In its advertising and in its  
15 presentations to prospective students, Defendants present this 90% "employment  
16 rate" as evidence of the likelihood that obtaining a DeVry degree leads to finding a  
17 job. While Defendants' advertisements and sales pitches most commonly express  
18 DVU's employment rate for recent graduates as exactly 90%, in some instances,  
19 during certain limited time periods, Defendants have stated a percentage that is  
20 slightly less or more than 90% (e.g., 87% or 92%). As explained below, these  
21 representations (Defendants' "90% claims") are false and unsubstantiated.

22 18. Defendants also have conveyed the message that DVU graduates  
23 obtain desirable jobs by representing that DVU graduates obtain jobs that pay  
24 significantly more than jobs that graduates of other colleges and universities obtain  
25 (Defendants' "higher income claim"). For example, Defendants have represented  
26 that, one year after graduation, DVU graduates with bachelor's degrees earned  
27 15% more than graduates with bachelor's degrees from all other colleges and  
28 universities. As explained below, this representation is false and unsubstantiated.



1 transcript of this advertisement is attached as Exhibit A.1.) Defendants also made  
2 this advertisement, including a shortened version, available on the Internet on  
3 DeVry’s YouTube channel. This advertisement contains the following statements  
4 and depictions:

- 5 a. A DVU student narrates the advertisement. She concludes by stating:  
6 “And when I finish my degree in business, a new job at a great  
7 company—that’s the graduation present I want.”
- 8 b. Immediately after the student refers to wanting a new job at a great  
9 company, an announcer states: “In 2012, 90% of DeVry University  
10 grads actively seeking employment had careers in their field in six  
11 months.”
- 12 c. While the announcer is speaking, the following screen appears, with  
13 people walking in the background, for approximately five seconds:



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24 The text in the middle of the screen reads:

25 **90%** of our **grads** actively seeking  
26 employment **had careers** in 6 months

- 27 d. The screen with the text then disappears, and the announcer then  
28 states: “Join the 90%. Learn how at devry.edu.”

1           23. A copy of another advertisement that Defendants ran on various  
2 national cable and satellite television channels, in approximately 2010, which is  
3 titled “Offer Letter,” is attached as Exhibit B. (A transcript of this advertisement is  
4 attached as Exhibit B.1.) Defendants also ran this advertisement starting in 2009,  
5 and continuing for an undetermined time, on YouTube. Defendants included a link  
6 to this YouTube video on DVU’s Facebook page. This advertisement contains the  
7 following statements and depictions:

- 8           a. The advertisement depicts people in business attire taping letters  
9 extending offers of employment to a large clear wall. The following  
10 two images are screen shots taken from this advertisement as the wall  
11 is filling up:



- 18  
19           b. An announcer states:

20                   The offer letter. If you’re going to college, or back to  
21 college, that’s your bull’s-eye. It is for DeVry University  
22 students. In fact, for more than thirty years, 90% of all  
23 graduates in the active job market had careers in their  
24 fields within six months. 90%. And all those offer  
25 letters up there, that’s just for last year. DeVry  
26 University: Discover education working at devry.edu.

27           24. A copy of an advertisement that Defendants have disseminated, or  
28 caused to be disseminated, at various times between October 2013 and April 2014



1 on numerous national cable and satellite TV channels, which Defendants titled  
2 “Roommates,” is attached as Exhibit C. (An English-language translation of this  
3 advertisement is attached as Exhibit C.1.) This advertisement contains the  
4 following statements and depictions:

5 a. During this advertisement, the announcer states:

6 En el 2012, el 90% de los graduados de DeVry University que  
7 buscaron empleo de forma activa ejercían su carrera en menos de 6  
8 meses. (Translation: “In 2012, 90% of graduates from DeVry  
9 University actively seeking employment had careers in less than 6  
10 months.”)

11 b. While the announcer is speaking, the following screen appears, for  
12 approximately five seconds:



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22 The text in the middle of the screen reads:

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24 el **90%** de nuestros **graduados** que buscaron empleo de  
25 forma activa **ejercían su carrera** en 6 meses.

26 (This translates to mean: “90% of our grads actively  
27 seeking employment had careers in 6 months.”)

28 DVU’s Website

1           25. Since at least 2008, Defendants have made their 90% claims and  
2 higher income claim on various webpages on the DVU website, at www.devry.edu.  
3 Examples of such webpages include, but are not limited to, the webpages described  
4 below.

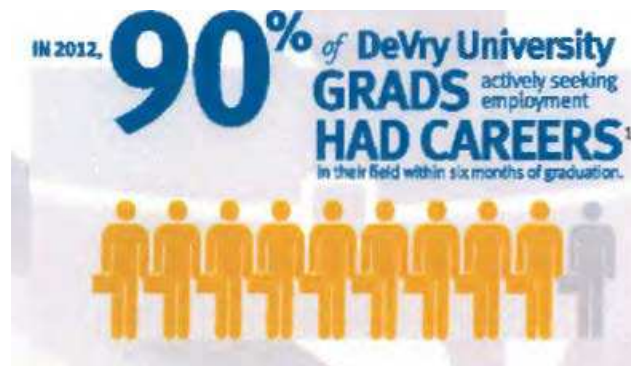
5           26. A copy of a printout of webpages, which were available starting in  
6 2013 by clicking a link on DVU's homepage (www.devry.edu) titled "Why  
7 DeVry," is attached as Exhibit D. This page contains the following statements and  
8 depictions:

9           a. At the top of the page it states the following:

10                           **Excellent employment results.**

11                           Nobody wants to go to college and just be a number . . . unless  
12 they're numbers like these. Each year, thousands of our grads  
13 find themselves right where they want to be – employed in their  
14 fields of study.

15           b. Immediately below this statement, the following graphic appears:



23  
24           (1) The text that accompanies this graphic reads:

25                           In 2012, **90%** of DeVry University **GRADS** actively  
26 seeking employment **HAD CAREERS<sup>1</sup>** in their field  
27 within six months of graduation.  
28

1 (2) The corresponding footnote, which is printed in a small font  
2 size at the end of the webpage attached as Exhibit D, reads:

3 <sup>1</sup>Figure based on 2012 graduates self-reporting  
4 data to DeVry University Career Services who  
5 were employed at graduation or actively seeking  
6 employment in their field after graduation. Does  
7 not include graduates who were not actively  
8 seeking employment, as determined by DeVry  
9 University Career Services, or who did not report  
10 data on employment status to DeVry University  
11 Career Services.

12 c. Another heading on the same webpage reads, “**An education that**  
13 **pays,**” which is followed by the statement that “Not only can a degree  
14 from DeVry University prepare you for a lifetime of career success, it  
15 can also increase your earning potential right from the start.”

16 (1) The following graphic appears immediately below this  
17 statement, on page 2 of Exhibit D:



25 (2) The text that accompanies this graphic reads:

26 One year after graduation, **DeVry University grads**  
27 **report earning 15% more** than the median earnings  
28 reported by all other bachelor's degree candidates.<sup>3</sup>

1 (3) The corresponding footnote, which appears at the end of the  
2 page in a small font size reads:

3 <sup>3</sup>Based on PayScale.com study commissioned by  
4 DeVry University. Data for the study was collected in  
5 2012 and compared reported earnings for 2010  
6 graduates. 73,309 bachelor's degree graduates  
7 reported earnings including 620 DeVry graduates.  
8 Self-reported information may not reflect actual  
9 earnings and may not be representative of earnings of  
10 individuals that do not supply information. Results  
11 may not be statistically significant. Comparative data  
12 includes private not-for-profit schools, private for-  
13 profit schools, and public schools.

14 27. A copy of a printout of one version of DVU's homepage at  
15 www.devry.edu, which appeared beginning in 2014 and continued into 2015, is  
16 attached as Exhibit E. This page contains the following statements and depictions:

- 17 a. In large bold font, on the first screen, Defendants assure visitors to  
18 DVU's website that they can "Count on DeVry for Career Success."  
19 b. Immediately below this line, the figure "90%" is printed in bold,  
20 extra-large font, on the left half of the screen. On the right half of the  
21 screen, the following text appears:

22 DeVry University helps prepare you to advance in your  
23 chosen career. In 2013, 90% of DeVry University  
24 graduates actively seeking employment obtained careers in  
25 their field within six months of graduation, or were already  
26 employed in their field when they graduated.\*

- 27 c. Below this statement, the following text appears:  
28

1                   \*Based on self-reported data from bachelor's and associate  
2                   degree graduates. Does not include graduates not actively  
3                   seeking employment, as determined by DeVry University  
4                   Career Services or graduates who did not report data on  
5                   employment status to DeVry University Career Services.

6                   28.    DVU's website has included webpages directed at high-school  
7                   students, including webpages at <http://www.high-school.devry.edu>. A copy of one  
8                   such webpage, which includes "Frequently Asked Questions" for parents of high-  
9                   school students, is attached as Exhibit F. This webpage appeared in at least 2014  
10                  and 2015. The following question and answer are included on this webpage:

11                               **Do DeVry University graduates get good jobs?**

12                               Employers want DeVry University graduates. More than  
13                               90% of our new graduates quickly land jobs in their fields of  
14                               study within six months of graduation ([learn more](#)). This is a  
15                               true testament to the fact that DeVry University teaches what  
16                               companies are looking for. . . . DeVry University graduates  
17                               leave school well-prepared to enter the workforce and begin  
18                               contributing immediately.

19                  29.    Clicking on the "[learn more](#)" link on Exhibit F leads or did lead to a  
20                  landing page for the "Career Services" section of DVU's website. A copy of  
21                  one version of this Career Services webpage that appeared in at least 2015,  
22                  attached as Exhibit G, includes the same "90%" statements that Defendants  
23                  made on DVU's homepage as described in Paragraph 26.

24                  30.    DVU's website also has included webpages that appeared in at least  
25                  2015 that were directed at current and former members of the armed services. An  
26                  example of one of these pages, attached as Exhibit H, contains the following  
27                  statements and depictions:  
28

1           **90%** DeVry University helps prepare you to advance in your  
2 chosen career. In 2013, 90% of DeVry University graduates  
3 actively seeking employment obtained careers in their field within  
4 six months of graduation, or were already employed in their field  
5 when they graduated.\*

6           \*Based on self-reported data from bachelor's and associate degree  
7 graduates. Does not include graduates not actively seeking  
8 employment, as determined by DeVry University Career Services  
9 or graduates who did not report data on employment status to  
10 DeVry University Career Services.

11           31. Another webpage, which has appeared on DVU's website since at  
12 least 2013 and is attached as Exhibit I, contains the following statement:

13           **Outstanding Career Services**

14           In addition to a relevant education and a highly respected degree,  
15 DeVry University offers invaluable career services that have  
16 helped thousands of students begin rewarding careers in their  
17 fields. The proof is the numbers. Since 1975, 265,869  
18 undergraduate students have graduated from DeVry and 90% of  
19 those in the active job market were employed in career related  
20 positions within six months of graduation.

21           YouTube Advertisements

22           32. At various times since at least 2009, Defendants have disseminated or  
23 caused to be disseminated video advertisements to YouTube, including videos that  
24 Defendants has uploaded to DVU's publicly available YouTube channel at  
25 <https://www.youtube.com/user/TheDevryUniversity/videos>. Examples of such  
26 videos include, but are not limited to, the video described below, as well as the  
27 "Graduation Present" and "Offer Letter" videos described above.  
28



1 DeVry University has been helping students do just that since  
2 1931. Everything we offer . . . is focused on your career  
3 success. Read on to learn how you can thrive at DeVry  
4 University – and beyond.

- 5 c. The statistic “90%” immediately follows this statement, in a bold,  
6 extra-large font, followed by the statement that:

7 For over 30 years, 90% of all DeVry graduates in the active  
8 job market have been employed in their field of study  
9 within six months of graduation\*.

- 10 d. At the bottom of the page, the following sentence appears, in fine  
11 print: “\*Active job market includes those already employed prior to  
12 graduation.”

13 36. Another brochure, entitled, “Why Should I Invest in an Education,”  
14 which Defendants disseminated or caused to be disseminated to high-school  
15 students, and which Defendants made available on DVU’s website beginning in  
16 2015, contains the following statements and depictions:

- 17 a. The following statements appear at the top of page 5 of the brochure:

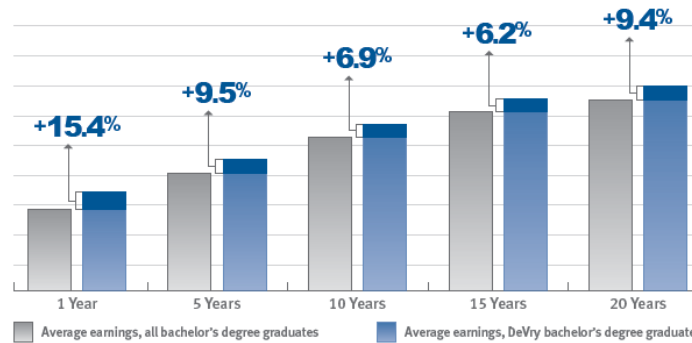
18 **It pays to earn a degree at DeVry University**

19 Not only can a bachelor’s degree make it possible to earn more  
20 money when you first enter the workforce, but a bachelor’s  
21 degree from DeVry University can also help you earn more  
22 over the life of your career.

- 23 b. The following graphic appears immediately below this text:  
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DeVry bachelor's degree graduates report earning more than other bachelor's degree holders



Source: Based on PayScale study commissioned by DeVry. Data collected in 2012 and compared median self-reported earnings for graduates at different stages in their careers. Self-reported information may not reflect actual earnings and may not be representative of earnings of individuals who don't supply information. Results may not be statistically significant. For information on study methodology, visit [devry.edu/sourceinfo](http://devry.edu/sourceinfo).

(1) The text above this bar graph reads:

DeVry bachelor's degree graduates report earning more than other bachelor's degree holders.

(2) The key beneath the graph explains that the gray bar on the left side of each pair of bars depicts the "average earnings, all bachelor's degree graduates," and that the blue bar on the right side of each pair depicts the "average earnings, DeVry bachelor's degree graduates."

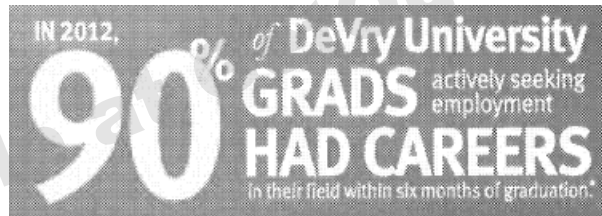
(3) The fine print under the graph reads:

Source: Based on PayScale study commissioned by DeVry. Data collected in 2012 and compared median self-reported earnings for graduates at different stages in their careers. Self-reported information may not reflect actual earnings and may not be representative of earnings of individuals who don't supply information. Results may not be statistically significant. For information on study methodology, visit [devry.edu/sourceinfo](http://devry.edu/sourceinfo).

1 Print Advertisements

2 37. Copies of two different print advertisements that Defendants  
3 disseminated or caused to be disseminated are attached as Exhibit L. These  
4 advertisements contain the following statements and depictions:

- 5 a. “Everything we do is focused on preparing our students for today’s  
6 careers. Our quality, real-world degrees and lifetime of career  
7 assistance can lead to exceptional employment results.”  
8 b. Below this statement, the following graphic appears:



14 The text of this graphic reads:

15 In 2012, **90%** of **DeVry University GRADS** actively  
16 seeking employment **HAD CAREERS** in their field within  
17 six months of graduation\*

- 18 c. The phrase “Join the 90%” immediately follows this graphic.  
19 d. The following statement appears at the bottom of the page, in fine  
20 print:

21 \*Figure based on 2012 graduates self-reporting data to  
22 DeVry University Career Services who were employed at  
23 graduation or actively seeking employment in their field  
24 after graduation. Does not include master’s degree  
25 graduates or graduates who were not actively seeking  
26 employment, as determined by DeVry, or who did not  
27 report data on employment status to DeVry.  
28

1 Twitter

2 38. Defendants have disseminated, or caused to be disseminated,  
3 representations on DVU’s public Twitter page at <https://twitter.com/DeVryUniv>.  
4 For example, on July 29, 2013, Defendants, using “@DeVryGroup,” tweeted the  
5 following:

6 “90% of #DeVry grads active in the job market find employment in  
7 their field of study within 6 months.” @DeVryUniv president Dave  
8 Pauldine.

9 Sales pitches

10 39. Prospective DVU students often have two different conversations  
11 with DVU representatives—an initial call with “an appointment setter,” and then a  
12 more extensive “interview” with one of DVU’s “Admissions Advisors.” During  
13 the course of these interactions, Defendants make statements and representations  
14 described below to induce prospective students to enroll in DVU.

15 40. Since at least 2013, appointment setters, using an outline provided by  
16 Defendants, have told prospective students: “The DeVry University difference  
17 includes outstanding career outcomes—In 2012, 90% of DeVry University grads  
18 actively seeking employment had careers in their field within six months of  
19 graduation.”

20 41. If an appointment is made, prospective students then speak to a DVU  
21 Admissions Advisor. Defendants’ policy is that students go through an  
22 “interview” with an Admissions Advisor before enrolling in DVU. The  
23 “interview” typically takes place in person on a DVU campus, although sometimes  
24 the discussion takes place by telephone. Defendants have provided DVU’s  
25 Admissions Advisors with a PowerPoint slide presentation that they use during this  
26 “interview.” Defendants also have provided guidelines, including a training guide,  
27 that instructs the Admissions Advisors how to use the presentation. When the  
28 “interview” takes place by telephone, the prospective student is directed to a

1 website that allows the student to walk through the slide presentation with the  
2 Admissions Advisor.

3 42. DVU’s Admissions Advisors represent during the “interviews” with  
4 prospective students that one of the benefits of obtaining a DVU degree is that, as a  
5 result of attaining that degree, 90% of DVU graduates obtain jobs in their field  
6 soon after graduating.

7 a. For example, the training guide instructs the Admissions Advisor,  
8 after showing a prospective student a slide touting DVU’s Career  
9 Services department, to tell him or her that, “[a]s a result of these  
10 types of career assistance our graduates have shown excellent career  
11 results, let’s take a look at those.” The prospective student is then  
12 immediately shown a slide entitled “Excellent Employment Results.”

13 (1) The following is a screen shot of a version of this slide that was  
14 used in 2013:



24 (2) This screen includes, but is not limited to, the following text:  
25 In 2012, 90% of DeVry University graduates from all  
26 programs who actively sought employment had careers in  
27 their field of study within six months of graduation.  
28





- b. This screen includes, but is not limited, to the following text:
- One year after graduation, DeVry University grads report earning 15% more than the median earning reported by all other bachelor's degree graduates.
- c. While viewing this slide, Admissions Advisors also are instructed to ask prospects, "How do you think having a 15% higher median earning helped those students?"

***Defendants' Substantiation for 90% Claims***

44. To substantiate their 90% claims, Defendants have relied upon files maintained by DVU's Career Services department, which consists of information DVU obtained from students and graduates, information its Career Services department maintained concerning communications with students and graduates, related information obtained by Career Service department personnel, and analysis that DVU's staff conducted of those files. These records contain information about the students' majors, graduation dates, their employment, and DVU's classifications of their employment status. Defendants used these records to calculate the 90% figure that they use in their advertisements and sales pitches.

1           45. These student records, however, do not provide a reasonable basis that  
2 substantiates Defendants' 90% claims. Among other reasons, when calculating the  
3 90% claims, Defendants count a substantial number of DVU graduates who should  
4 not be counted and similarly exclude a substantial number of DVU graduates who  
5 should not be excluded. For example, Defendants count graduates who did not  
6 obtain a job as a result of obtaining a degree from DVU. In fact, Defendants  
7 include the substantial percentage of DVU graduates who, after graduation,  
8 continued with the same job they had when they enrolled in DVU. Defendants  
9 also count graduates who did not obtain jobs in their field of study. A significant  
10 percentage of the jobs that Defendants count as being in the graduate's field of  
11 study include jobs that employers, industry experts, graduates, and consumers  
12 would not reasonably consider to be in the graduate's field of study. Several  
13 examples of graduates from DVU's class of 2012 who did not believe they were  
14 employed in their field of study but whom Defendants nonetheless classified as "in  
15 field" include (but are not limited to):

- 16           a. graduates with degrees in technical management who were working  
17 as: a rural mail carrier (human resources specialization); a yard  
18 salesman at a nursery (business information systems specialization); a  
19 sales associate at Macy's (general technical specialization); a driver  
20 delivering rain gutters for a construction services company; a data  
21 entry specialist for a radio station (human resources specialization);  
22 and unpaid volunteers at medical centers (human resources  
23 management and health services management specializations);
- 24           b. a graduate with a degree in business administration (health services  
25 management specialization) working as a server at the Cheesecake  
26 Factory;
- 27           c. a graduate with a degree in business administration (health care  
28 management specialization) working as a car salesman;

- 1 d. a graduate with a degree in business administration (accounting
- 2 specialization) working as a secretary at a prison;
- 3 e. graduates with various degrees working as customer service
- 4 representatives.

5 46. Defendants also exclude certain students from the calculation who in  
6 fact were actively seeking employment. For example, in June 2013, Defendants  
7 excluded one 2012 graduate who, prior to being classified as inactive: viewed 177  
8 jobs leads in DVU's jobs database; had at least six job interviews in the previous  
9 two months (including two interviews eleven days before DVU classified him as  
10 inactive); sent an email to DVU's Career Services department, two weeks before  
11 being classified as inactive, in which he stated that he "wanted to let you know I've  
12 been getting more response now that I am much more actively applying to  
13 positions," and that he "had two face to face interviews a while back and now 2  
14 Skype interviews"; attended a DVU "Career Fair" the following day; and then sent  
15 the Career Services department an email informing them that, after attending the  
16 career fair, he sent three thank you notes to companies whose representatives he  
17 had spoken to at the fair.

18 47. The actual percentage of DVU graduates who, at or near the time they  
19 graduated, found jobs that could be reasonably considered "in their field" is  
20 significantly smaller than 90%.

### 21 ***Defendants' Substantiation for Higher-Income Claim***

22 48. To substantiate Defendants' higher-income claim, Defendants have  
23 relied upon a report and summary information ("income report") that Defendants  
24 received from a third-party company in 2012. This income report, relating to  
25 income data the company had received from people who had graduated from DVU  
26 and other schools in 2010, does not provide a reasonable basis to substantiate  
27 Defendants' higher-income claim. Among other reasons, the income report is  
28



1 insufficient because DVU had good cause to question, and did question, the  
2 reliability of the conclusions and information contained in the income report.

3 49. The sampling methods and methodology of the survey that underlay  
4 the income report all gave or should have given Defendants reason to question the  
5 reliability of the conclusions and information contained in the report. In fact, DVU  
6 personnel expressed concerns over whether the data sufficiently supported the  
7 higher-income claim. Among other problems, the comparison of the incomes of  
8 DVU graduates with incomes of graduates from other schools did not account or  
9 adjust for significant salary drivers such as age, experience, and degree field. In  
10 addition, statistics that DVU had directly collected from thousands of its graduates  
11 each year about their incomes differed significantly from the third party's statistics,  
12 which consisted of information from only several hundred individuals per  
13 graduation year.

14 50. Defendants not only had extensive information in their own files  
15 about the income of DVU graduates, but they also had ready access to publicly  
16 available data reflecting the incomes of graduates of schools throughout the United  
17 States, by school and by field. Comparing the information in Defendants' own  
18 files with publicly available income data shows that DVU graduates a year after  
19 graduating do not in fact earn significantly more than graduates from all other  
20 schools combined, casting doubt on Defendants' higher-income claim.  
21 Defendants' reliance on the third-party data for its higher-income claim was  
22 therefore unreasonable.

### 23 **VIOLATIONS OF THE FTC ACT**

24 51. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
25 deceptive acts or practices in or affecting commerce."

26 52. Misrepresentations or deceptive omissions of material fact constitute  
27 deceptive acts or practices prohibited by Section 5(a) of the FTC Act.  
28

1 **Count I**

2 53. Through the means described in Paragraphs 14 through 42,  
3 Defendants have represented, expressly or by implication, that:

- 4 a. As a result of obtaining a DVU degree, 90% of DVU graduates from a  
5 specific year (e.g., graduates from 2012) who were actively seeking  
6 employment landed or obtained new jobs in their field of study within  
7 six months of graduation.
- 8 b. As a result of obtaining a DVU degree, for at least the last 30 years,  
9 90% of DVU graduates who were actively seeking employment  
10 landed or obtained new jobs in their field of study within six months  
11 of graduation.

12 54. Each representation set forth in Paragraph 53 is false or misleading or  
13 was not substantiated at the time the representation was made.

14 55. Therefore, the making of each representation as set forth in Paragraph  
15 53 of this Complaint constitutes a deceptive act or practice, in or affecting  
16 commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

17 **Count II**

18 56. Through the means described in Paragraphs 14 through 18, 25 through  
19 26, 36, 39, 41 and 43, Defendants have represented, expressly or by implication,  
20 that:

- 21 a. one year after graduation, the average or median earnings of DVU  
22 graduates with bachelor's degrees were 15% higher than the average  
23 or median earnings of graduates with bachelor's degrees from all  
24 other colleges and universities; and
- 25 b. DVU bachelor's degree graduates earn 15% more than graduates from  
26 other colleges and universities, as described in part "a" above, as a  
27 result of obtaining a bachelor's degree from DVU.
- 28



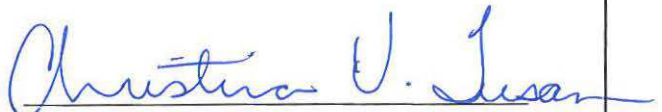
1 B. Award such relief as the Court finds necessary to redress injury to  
2 consumers resulting from Defendants' violations of the FTC Act, including but not  
3 limited to, rescission or reformation of contracts, restitution, the refund of monies  
4 paid, and the disgorgement of ill-gotten monies; and

5 C. Award Plaintiff the costs of bringing this action, as well as such other  
6 and additional relief as the Court may determine to be just and proper.

7  
8 Respectfully submitted,

9  
10 Jonathan E. Nuechterlein  
11 General Counsel

12  
13 Dated: 1-27-16

14 

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