



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of:)
)
JANUARY 16, 2014 CIVIL INVESTIGATIVE)
DEMAND ISSUED TO THE COLLEGE)
NETWORK, INC.)

FTC File Number:
1323236 and/or
P138402*

PETITION TO STRIKE OR LIMIT OF THE COLLEGE NETWORK, INC.

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*The first number is the "FTC File No." as stated by FTC letters attached as Exhibits to this Petition. The second number is the "File No." stated in the Resolution which is the third page of the Civil Investigative Demand.

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In accordance with 16 C.F.R. § 2.10, The College Network, Inc. (“TCN”), by and through counsel, hereby timely and respectfully petitions to strike or limit the Civil Investigative Demand issued upon TCN by the Federal Trade Commission on January 16, 2014 (the “CID”). The CID as received by TCN is attached as Exhibit 1 to Exhibit A hereto.

I.

TCN GENERALLY

TCN is an educational services and publishing company that creates and markets self-guided educational materials and exams to adults seeking to complete end-of-course college level equivalency examinations. *See Exhibit A hereto, Affidavit of Mark Ivory* (the “Ivory Affidavit”), ¶ 2. TCN is not a school and does not award college degrees. *Id.* During the responsive period, TCN has marketed its products and services both directly and through approximately 140 independent contractors nationwide. *Id.* To date, TCN has sold its services and products to over 200,000 customers nationwide. *Id.*

II.

THE MEET AND CONFER PROCESS AND THE SCOPE OF THIS PETITION

The CID was received by TCN on January 21, 2014. *See Ivory Affidavit, ¶ 3.* That is less than 60 days ago. Including its subparts, the CID consists of at least **152** interrogatories and **58** specifications for document production. *See CID.*

Pursuant to 16 C.F.R. § 2.10(a), any petition to quash or modify the CID was originally due to be filed by February 20, 2014. After the meet and confer process began, and apparently recognizing that the initial filing deadline was impossibly short, on February 7, 2014, the FTC by letter (the “FTC First Extension Letter”):

- (i) Extended until March 20, 2014, the “deadline” for TCN to “comply” with certain of the CID Interrogatory Specifications and certain of the CID Document Specifications. More particularly, the FTC First Extension Letter extended until March 20, 2014, the time for TCN to “comply” with CID Interrogatory Specifications Nos. 5, 7, 8, 9, 10, 11, 12, 13, 14, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43 and CID Document Specifications Nos. 2, 4, 6, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 (collectively, the “Remaining CID Specifications”); and
- (ii) Extended until March 20, 2014, the “deadline” for TCN to file any petition to quash or limit with respect to the Remaining CID Specifications plus portions of CID Interrogatory Specifications Nos. 3, 16 and 19 and CID Document Specifications Nos. 1, 17, 18, 19, and 20.

See Exhibit B hereto (the FTC First Extension Letter).

By the original CID return date, and with respect to all of the CID Specifications which are not Remaining CID Specifications, TCN provided answers to the CID Interrogatory Specifications and produced documents pursuant to the CID Document Specifications (collectively, “the TCN Initial Production”)¹.

After continuing to confer with the FTC, on March 6, 2014, TCN made a fifteen (15) page written proposal to the FTC (the “TCN First Proposal”). *See Exhibit C hereto*. The TCN First Proposal offered to the FTC a mechanism for TCN to comply with the Remaining CID Specifications on a “rolling basis” while reserving TCN’s rights to file a petition to limit the CID. *Id.* By letter dated March 13, 2014, the FTC formally rejected the Proposal. *See Exhibit D hereto*.

On March 14, 2014, TCN made a proposal by e-mail to the FTC to attempt to limit the scope of what has eventually resulted in this Petition. *See Group Exhibit E hereto* (including that proposal). After many e-mails between TCN and the FTC, which

¹ The TCN Initial Production is entirely designated as confidential and has been made subject to the FTC’s statutory requirement to preserve confidentiality.

included modifications to that proposal (as modified, the “TCN Second Proposal”), *see id.*, on March 17, 2014, at approximately 10:04 p.m. E.S.T.², TCN received certain recommended extensions as to timing and scope from the FTC in response to the TCN Second Proposal. *See Exhibit F hereto.* Those recommendations were accepted by the FTC and memorialized by letter received at approximately 3:30 p.m. E.S.T. on March 19, 2014 (the “FTC Second Extension Letter”). *See Exhibit G hereto.*

To emphasize, until approximately 3:30 p.m. E.S.T. on March 19, 2014, TCN had secured no agreement from the FTC (other than the First Extension Letter) which limited in any way either the response date or scope of the Remaining CID Specifications. In that regard, while the FTC Second Extension Letter extends the response time for certain of the Remaining CID Specifications, it also expressly reserves the right to “seek full compliance with the CID as issued.” Thus, the FTC Second Extension Letter requires TCN to include within this Petition its objections (a) to any response period provided by the FTC Second Extension Letter and (b) as to scope.

III.

THE SPECIFIC MATTERS ADDRESSED BY THIS PETITION

A. **The Defined Word “Company”:**

CID Interrogatories A.1., A.2., A.3, B.3, B.4., B.5, B.6., B.7, B.8, B.10, B.11, B.12, B.13, B.14, C.15, C.16, C.17, C.18, D.19, D.20, D.21, E.22, E.23, F.24, F.26, F.27, F.28, F.29, F.30, F.31, F.32, F.33, F.34, F.35, F.36, F.37, and H.39

--and--

CID Document Specifications B.1., B.2, B.4, B.7 (through Interrogatory B.8), E.18, E.19, F.20, F.21, F.22 (through Document

² FTC counsel is located in San Francisco and TCN counsel is located in Cincinnati and Indianapolis.

Specification F.20), F.23 and F.24 (through Interrogatories F.27 and F.29)³, F.25 (through Interrogatory F.30), F.26 (through Interrogatory F.31), F.27 (through Interrogatory F.32), F.28 (through Document Specification F.20), F.29 (through Document Specification F.20), F.30, F.31 (through Interrogatories F.35 and F.36), and H.35 and H.36 (through Interrogatories F.39 and F.40, respectively).

Each of these CID Interrogatories and CID Document Specifications contain or reference the defined word “Company” (collectively, the “‘Company’ Specifications”).

“You” and “your” are defined by the CID as “the person or entity to which this CID is issued”, *i.e.*, TCN. *See CID*, p. 4 of 26; *see also CID*, cover page (CID issued to “The College Network, Inc.”). However, the word “Company” is not so limited. Instead, “Company” is defined by the CID as follows:

‘Company’ shall mean The College Network, Inc., and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates⁴, including College Network Inc. and The College Network Inc., and all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

CID, p. 2 of 26 (bolding omitted) (underlining added). Whenever the word “Company” appears in the CID Specifications, the CID “as written” requires TCN to consider not just itself but also, *e.g.*, all of its “agents”, “consultants”, and “other persons working for or on behalf of the foregoing”, which could include completely unrelated entities like lead vendors. In that regard, the vagueness and breath of the phrase “other persons working

³ Like many of the Document Specifications, this Specification is tied in whole or part to one or more CID Interrogatories and unreasonably requires the reader (including the FTC Commissioners and any reviewing court) to flip back and forth between the Document Specification and the Interrogatory(ies) referenced therein.

⁴ The word “affiliates” is not defined by the CID. The FTC Second Extension Letter “provisionally” removes “affiliates” from the definition of “Company”; in so doing, the FTC has at least tacitly conceded the overbreadth of that word.

for and on behalf of the foregoing is illustrated by the following facts: during the responsive period TCN has utilized over 125 lead vendors. *See Exhibit H hereto, Affidavit of Cory Eyer* (the “Eyer Affidavit”), ¶ 5. TCN has neither custody nor control over the documents of these vendors and no right to demand access. *Id.*

During the responsive period, TCN has operated through over 140 independent contractors nationwide. *Id.* Under the CID’s definition of “Company”, TCN would need to include within its response documents maintained and information known by each of these contractors. However, TCN does not have custody or control over documents maintained by its independent contractor network and has no right to demand information responsive to the CID. *Id.* Even attempting to obtain information orally would be an expensive, time consuming, and overly burdensome undertaking.

For these reasons, TCN objects to each of the ‘Company’ Specifications because the definition of “Company” causes each of the ‘Company’ Specifications to be (i) overbroad, (ii) oppressive, (iii) unreasonable, and (iv) vague and ambiguous, thereby causing each of the “Company’ Specifications to be not susceptible to certification.⁵

Accordingly, TCN moves to limit the definition of “Company” for all purposes of each of the ‘Company’ Specifications to the definition proposed by the TCN Second Proposal as partially and provisionally accepted by FTC Second Extension Letter, *i.e.*, “The College Network, Inc., and its wholly or partially owned subsidiaries,

⁵ The CID requires that “you shall certify that the response to the CID is complete.” *See CID*, p. 6 of 26. “This certification shall be made in the form set out on the back of the CID form, or by a declaration under penalty of perjury as provided by 28 U.S.C. § 1746.” *Id.* In that regard, the “Form of Certificate of Compliance” within the CID requires that it be “sworn to this day” by a natural person. *See CID*, “Form of Certificate of Compliance”.

unincorporated divisions, joint ventures, and operations under assumed names, including College Network Inc. and The College Network Inc., and all directors, officers, and employees.”

B. The Defined Word “Identify”: CID Interrogatories B.6, B.7, B.10, B.12, E.23, F.25, F.34, G.37, G.39 and G.40.

The word “identify” is contained within each of these Interrogatories, and that word is defined by the CID as follows:

‘Identify’ or ‘the identity of’ shall be construed to require identification of (a) any natural persons by name, title, present business affiliation, present business address and telephone number, or if a present affiliation is not known, the last business and home address; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable.

CID, page 3 of 26 (bolding omitted).

The word “identify” is used in CID Interrogatories Nos. B.6, B.7, B.10, B.12, E.23, F.25, F.34, and G.37c in the following contexts, thereby creating the following effects:

- CID Interrogatory No. B.6: Identify any university...or organization with which the Company⁶] has a...relationship....

Effect Created: Stating the names and addresses of the applicable universities and organizations is insufficient. TCN must also obtain for each such university and organization the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”.

- CID Interrogatory No. B.7: Identify any accrediting organization, hospital, long-term care company, healthcare organization, and nursing or other trade association with which the Company has a partnership, affiliation, or any other relationship....

⁶ TCN’s objection to “Company” has already been stated.

Effect Created: Stating the names and addresses of the applicable entities is insufficient. TCN must also obtain for each such entity the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”.

- CID Interrogatory No. B.10: Identify the "pre-selected financial sources" described in the following statement from the Company....

Effect Created: Stating the names and addresses of the applicable “sources” is insufficient. TCN must also obtain for each such “source” the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”.

- CID Interrogatory No. B.12:for each year and the current year, identify the number and percentage of consumers in default.

Effect Created: But for the definition of “identify”, TCN could properly answer this Interrogatory with “the number and percentage”. However, the definition of “identify” requires that TCN provide the name and address for all applicable “customers in default” and demonstrates the FTC’s intent to contact those persons. The identity of TCN’s present and past customers is proprietary. Not only could such contact adversely affect TCN’s business, but CID Interrogatory No. B.12 is also impermissible “fishing”. *See Sen. Rep. No. 96-500, 96th Cong., 2nd Sess., quoted by Foremost, infra; see also Peters, infra.*

- CID Interrogatory No. E.23: Identify any agreements or arrangements between the Company and any other entity or individual to initiate or respond to, on behalf of the Company, consumer telephone calls or Internet chats.

Effect Created: Stating the name(s) and address(es) of any applicable “entity” is insufficient. TCN must also obtain for each the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”. Furthermore, stating the name and business address of any applicable “individual” is also insufficient: a phone number is also required; and, if the current address is unknown, then TCN must provide any last known home address.

- CID Interrogatory No. F.25: Identify each individual or company (including but not limited to advertising agencies) that has participated in the development, preparation, or placement of any advertisement....

Effect Created: Stating the names and addresses of any applicable “company” is insufficient. TCN must also obtain for each the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”. Furthermore, stating the name and business address of any applicable “individual” is also insufficient: a phone number is also

required; and, if the current address is unknown, then TCN must provide any last known home address.

- CID Interrogatory No. F.34: Identify each individual or company (including but not limited to advertising agencies) that has participated in the development, preparation, or placement of any advertisement....

Effect Created: Stating the name(s) and address(es) of any applicable “company” is insufficient. TCN must also obtain for each the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”. Furthermore, stating the name and business address of any applicable “individual” is also insufficient: a phone number is also required; and, if the current address is unknown, then TCN must provide any last known home address.

- CID Interrogatory No. G.37c: identify all parties, internal or external, who may use or access the Personal Information (*i.e.*, each employee, Service Provider, contractor, agent, or other person or entity, except that you do not need to identify a consumer who may use or access information regarding him- or herself)...

Effect Created: Stating the name(s) and address(es) of the applicable “parties” is insufficient. TCN must also obtain for any entity the “identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable”. Furthermore, stating the name and business address of any applicable individual is also insufficient: a phone number is also required; and, if the current address is unknown, then TCN must provide any last known home address.

In sum and substance, the CID’s own definition of the word “identify” causes each of these CID Interrogatories to be oppressive, unreasonable, misleading, overbroad and unduly burdensome. TCN moves to strike CID Interrogatories B.7, B.10, B.12, E.23, F.25, F.34, and G.37c.

Also, the FTC uses “identify” in Interrogatory Specification contexts that make the CID’s definition of that word unintelligible as applied. More particularly:

- CID Interrogatory No. G.37a: Identify and describe each type of Personal Information that you collect....
- CID Interrogatory No. G.39: Identify and summarize all dispute resolution proceedings...and legal, administrative, or enforcement actions....

- CID Interrogatory No. G.40: Identify and summarize all complaints, inquiries, and communications....

TCN moves to strike the words “Identify and” from CID Interrogatory No. G.37a, CID Interrogatory No. G.39, and CID Interrogatory No. G.40.

As an alternative to these motions to strike caused by the CID’s use of “identify”, and consistently with the TCN Second Proposal, TCN moves to limit the CID’s definition of the word “identify” to (i) with respect to current and former employees, name and job title; (ii) with respect to third party natural persons with whom TCN has a direct relationship, name and business affiliation; and (iii) with respect to third party entities, name, with TCN to supply addresses for any specific third person businesses or entities as may be reasonably requested by FTC.

C. TCN’s Other Specific Objections to CID Interrogatories.

1. CID Interrogatory A.3

This Interrogatory contains the defined words “Company” and “identify”; TCN incorporates herein its prior objections to those words.

By the TCN Initial Production, TCN has responded in part to this Interrogatory Specification, which requests TCN to “identify” “all current and former officers, employees, independent contractors, affiliates, or agents...with responsibilities relating to, or with knowledge about” “the nature of the Company’s...relationships with colleges and universities, and any other educational institution”, “the number of students who enrolled in any Educational Service and obtained a degree”, “the acceptance of any Educational Service for course credit”, and “the experience, skills and substantive expertise of “Academic Advisors’ and any other individuals who responded to academic support calls and Internet chats.”

TCN objects further to this Interrogatory because it is overbroad, oppressive, and unreasonable. As written, Interrogatory A.3 purports to require TCN to identify all persons with any knowledge regarding the identified topics; virtually all TCN personnel have some knowledge. TCN moves to strike the unanswered portion of CID Interrogatory Specification A.3 on these grounds; alternatively, TCN moves to limit this Interrogatory to a listing of current TCN officers and current TCN managerial or supervisory employees with primary responsibility or who are most likely to have knowledge regarding the enumerated topics.

2. CID Interrogatory D.19.

TCN incorporates herein its prior objections to the defined word “Company”.

CID Interrogatory D.19 demands that TCN identify all of its customers during the responsive period. For each such customer, this Interrogatory demands that TCN state, *inter alia*, whether that customer “complained”, “cancelled or attempted to cancel”, and “received any refund from or reached any settlement”.

TCN’s Vice President of Call Center Operations is Gary Fair. *See Exhibit I hereto, Affidavit of Gary Fair* (the “Fair Affidavit”), ¶ 1. The Fair Affidavit states:

[T]o capture all ‘complaints’ would require a manual review of over 200,000 customer files, which would likely consist of millions of pages of documents.

Due to the breadth and scope of these requests, I cannot even begin to estimate the time, money, and manpower that would need to be invested to manually review over 200,000 customer files for every ‘complaint’, regardless of whether these ‘complaints’ relate to the company or not. Suffice it to say that the project would either shut down the company, or take years to complete.

Fair Affidavit, ¶¶ 5-6; *see also Ivory Affidavit*, ¶ 8. TCN objects to CID Interrogatory D. 19 as unduly burdensome. *See FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C.Cir. 1977)

(undue burden established when compliance with CID would either “unduly disrupt or seriously hinder normal operations of a business”).

Furthermore, the FTC has identified 29 specific individuals who the FTC knows are customers or former customers of TCN. *See CID Document Specification D.15.* The only reason for the FTC requiring the names of other TCN’s customers can be for the FTC to contact those customers as the FTC sees fit. Therefore, TCN also objects to this Interrogatory as improper “fishing”. In enacting the Federal Trade Commission Improvements Act of 1980, and with respect to “all precomplaint actions of the [FTC]”, it was the express Congressional intent “to prevent fishing expeditions merely to satisfy [the FTC’s] “official curiosity””. *Sen. Rep. No. 96-500, 96th Cong., 2nd Sess., quoted by F.T.C. v. Foremost-McKesson, Inc., 1981 WL 2029, *4 (S.D.N.Y. 1981); see also Peters v. United States, 853 F.2d 692, 700 (9th Cir. 1987) (even an administrative subpoena “may not be so broad as to be in the nature of a ‘fishing expedition’”).*

Accordingly, TCN moves to strike CID Interrogatory No. 19 as overbroad, unduly burdensome, unreasonable, and oppressive.

3. CID Interrogatory F.32.

TCN incorporates its prior objections to the word “Company”.

TCN moves to strike Interrogatory F.32 as overbroad, unduly burdensome, unreasonable, oppressive, and not susceptible to certification. In order to even attempt to answer this Interrogatory:

[a] manual review of all customer records would be required....To undertake a task of manually reviewing all customer records (over 200,000) would be impossible for the company to undertake without ceasing normal operations, or would require, by my estimate, months or years to complete, depending on the manpower devoted to the project.

Moreover, the accuracy of the project, due to its manually intensive nature, would be subject to doubt.

Ivory Affidavit, ¶ 8; *see also Texaco, supra*.

4. CID Interrogatory F.40.

This Interrogatory pertains to “all complaints, inquiries, and communications referring or relating to any Educational Service sent to or received from” a long list of entities. For the same reasons expressed with respect to CID Interrogatories D.19 and F.32, TCN objects to Interrogatory F.40 as overbroad, unduly burdensome, oppressive, unreasonable, and not subject to certification, and moves to strike Interrogatory F.40. *See Fair Affidavit; Ivory Affidavit; see also Texaco, supra*.

D. TCN’s Other Specific Objections to CID Document Specifications.

1. E-mails and CID Document Specifications B.2, B.3, B.4, D.15, D.16, E.17, E.18, F.20, F.21, F.22, F.23, F.29, F.30, F.31, and F.35.

TCN has approximately 256 Google e-mail account holders. *See Exhibit J hereto, Affidavit of Ryan Sallee* (the “Sallee Affidavit”), ¶ 4. To properly and effectively search e-mail accounts TCN would be required to export each account separately, format the materials, and apply search terms. *Id.* TCN’s current e-mail management system does not allow TCN to search all e-mail accounts simultaneously in Google. *Id.*

TCN was working with FTC investigators to reach consensus regarding a universe of custodian accounts to retrieve and search and a listing of search terms to apply. That process was necessarily halted by the deadline for the filing of this Petition; neither TCN nor its counsel know the content of all TCN e-mail.

By the FTC Second Extension Letter, the time for production of all responsive e-mail is extended until May 19, 2014. While that extension is appreciated, it is not known

if it will be sufficient. Furthermore, upon review of that e-mail, objections currently unknowable may arise.

For all of these reasons, TCN moves to limit the prohibition against any future filing to limit or quash the CID with respect to e-mail production by allowing any such motion to be filed by May 19, 2014. This motion is supported by both law and equity. The CID has been in the possession of TCN for less than 60 days. As a matter of law, the FTC “shall...provid[e] [] a reasonable period of time within which the material...demanded may be assembled and made available”. *16 C.F.R. § 2.7(b)(1)*; *see also 16 C.F.R. § 2.7(b)(2)* (underlining added). As applied to e-mail, TCN has demonstrated that a reasonable time may require more than what is now provided. Furthermore, “[p]rotection from arbitrary action is the essence of substantive due process.” *16B Am.Jur.2d, Constitutional Law § 968*. Whether a party has had a sufficient opportunity to be heard raises a question of due process “appropriate to the nature of the case.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 656, 94 L.Ed. 865 (1950).

2. CID Document Specifications F.20, F.21, F.22, and F.28.

TCN incorporates its prior objections to the word “Company”.

CID Document Specification F.20 commands production of “all disseminated advertisements referring or relating to any Educational Service....This Specification includes all websites and webpages (whether or not operated by the Company) that has advertised any educational service. Your production should include all versions...including all past or achived versions...and...all source code programs, log files, and scripts related to such websites and webpages.” Document Specification F.21

commands the production of “all documents...referring or relating to...any aspect of the creation, development, approval, execution, or evaluation of any item responsive to Document Specification F.20”, and CID Document Specification F.22 states, “[f]or each advertisement responsive to Document Specification F.20”, produce, *inter alia*, “materials sufficient to permit determination” of “to whom” “ads were disseminated”. Similarly, Document Specification F.28 incorporates F.20 within its terms.

Like other Specifications already addressed, the task the FTC seeks to require of TCN is astounding:

The number of links or advertisements generated for a single day would be between 3,000 and 6,000, and would appear on an unknowable number of websites and webpages....Accordingly, and as an example only, Document Specification F.22 would require the production of a ‘dissemination schedule, including the dates and times of dissemination,’ among other things, for the 3,000-6,000 links or advertisements generated in a single day, as stated above. This is simply impossible.

Eyler Affidavit, ¶ 5; *see also Texaco, supra*.

Thus, TCN also objects to CID Document Specification Nos. F.20, F.21, F.22 and F.28 as unduly burdensome, unreasonable, oppressive, and not susceptible to certification. TCN moves to strike Document Specifications F.20, F.21, F.22 and F.28.

3. CID Document Specification F.29.

TCN incorporates its prior objections to the word “Company”.

This Specification demands production of “all documents” “referring or relating to the target audience”, thereby appearing to demand the impossible task of the production of all TCN “documents” during the responsive period. *See Fair Affidavit; Eyler Affidavit; Ivory Affidavit; Sallee Affidavit; see also Texaco*. Additionally, this Specification is impermissible fishing. *See Sen. Rep. No. 96-500, 96th Cong., 2nd Sess.*

quoted by Foremost, supra; see also Peters, supra. Accordingly, TCN objects to this Specification as unduly burdensome, unreasonable, oppressive, overbroad, and not susceptible to certification; TCN moves to strike Document Specification F.29.

4. CID Document Specification H.35.

TCN incorporates its prior objections to the word “Company”.

Again, this Specification commands production of “all complaints, inquiries, and communications relating to the information requested by Interrogatory Specification H.40, which pertains to “all complaints, inquiries, and communications referring or relating to any Educational Service sent to or received from” a long list of entities. TCN objects to CID Document Specification No. H.35 as unduly burdensome, overbroad, oppressive, unreasonable, and not subject to certification. *See Fair Affidavit; Eyler Affidavit; Ivory Affidavit; Sallee Affidavit; see also Texaco, supra.* TCN moves to strike CID Document Specification No. H.35.

5. CID Document Specifications C.10, C.11, C12, D.13, F.22, and F.27.

TCN incorporates its prior objections to the word “Company”.

Each of these Document Specifications also contain the undefined word “databases”: TCN’s customer database consists of over 200,000 customer records. *See Sallee Affidavit, ¶ 7.* That database contains limited fields. *Id.* Both new equipment and outside assistance would be required in order for production. *Id.* Production of TCN’s accounting database would impose similar undue burden upon TCN. *Id.* Therefore, TCN also objects to each of these six Specifications as overbroad, unreasonable, oppressive, vague, ambiguous, unduly burdensome, and not subject to certification, and moves to strike the word “databases” from each of these six Document Specifications.

6. CID Document Specification D.15(c).

CID Document Specification D.15(c) commands the production of “all” “records referring to or relating” to “each” of 29 named individuals, all of whom are customers or former customers of TCN. TCN objects to CID Document Specification No. D.15(c) as (a) vague, ambiguous, and subjective and therefore not susceptible to certification, (b) overbroad, (c) oppressive; and (d) unreasonable. TCN moves to strike CID Document Specification D.15(c); alternatively, TCN moves to limit Specification D.15(c) to the production of each customer file for each of these 29 individuals.

7. CID Document Specification D.16.

This Specification demands production of “all communications referring or relating to any issues raised by customer complaints, including but not limited to internal e-mails....[underlining added].” TCN objects to this Specification as overbroad, oppressive, unreasonable, unduly burdensome, and not subject to certification.⁷ *See Fair Affidavit; Eyley Affidavit; Ivory Affidavit; Sallee Affidavit; see also Texaco, supra.* TCN moves to strike CID Document Specification D.16.

8. CID Document Specification E.17.

This Specification commands the production of “all documents relating to the information requested by Interrogatory Specification E.22 [underlining added], and Interrogatory E.22 commands a description of “the Company’s marketing policies, practices, and procedures” for various matters. TCN objects to Document Specification E.17 as (a) vague, ambiguous and subjective and therefore not susceptible to certification,

⁷ The CID’s definition of “referring to’ or ‘relating to” reinforces TCN’s objections whenever a Specification includes either of those defined terms: that definition includes “pertaining to, in whole or part”. *See CID*, pp. 3-4 of 26 (bolding omitted).

(b) overbroad, (c) oppressive; (d) unduly burdensome; and (d) unreasonable. *See Fair Affidavit; Eyer Affidavit; Ivory Affidavit; Sallee Affidavit; see also Texaco, supra.* TCN moves to strike Document Specification E.17; alternatively, TCN moves to limit this Specification to any TCN marketing policies and procedures.

9. CID Document Specification B.7.

This Specification demands the production of documents “sufficient to show the information requested by Interrogatory Specification B.8”. Interrogatory B.8 not only uses the word “Company” but also states that “your description should include” “independent contractors, affiliates,...and any other individuals involved....”

TCN objects to Document Specification B.7 for the same reasons that TCN objects to “Company” and moves to limit the response to this Specification to TCN. TCN objects to anything within the CID which purports to require TCN to produce documents which are not in its possession, custody or control.

IV.

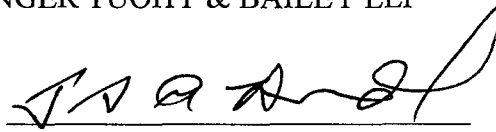
CONCLUSION

For all of the reasons set forth in this Petition with its attached exhibits, TCN timely moves to quash or limit the CID as stated within TCN’s respective motions contained within this Petition.

Respectfully submitted,

DONINGER TUOHY & BAILEY LLP

By:



Thomas A. Brodnik
Richard B. Kaufman
50 South Meridian Street, Suite 700
Indianapolis, Indiana 46204
(317) 638-2400

-and-

Jeanne M. Cors
TAFT STETTINUS & HOLLISTER LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio, 45202-3957
(513)381-2838

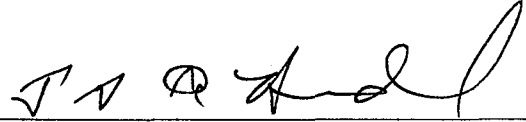
Counsel for The College Network, Inc.

STATEMENT OF COUNSEL FOR THE COLLEGE NETWORK, INC.

Thomas A. Brodnik states:

1. I am an attorney licensed to practice law within the States of Indiana and California, and I represent The College Network, Inc. ("TCN").
2. I have conferred with Federal Trade Commission (the "FTC") staff pursuant to 15 C.F.R. § 2.7(k) in a good faith effort to resolve by agreement the issues raised by this Petition but TCN and the FTC have reached no agreement as to such issues. While there have been many other communications between counsel for the FTC and TCN in which Jeanne Cors and Yan Fang were the primary participants, actual "meet and confer" telephonic conferences occurred on at least February 4, 2014, February 27, 2014, and March 11, 2014. The persons attending all of those three conferences were:

- (a) for TCN: Jeanne Cors, Richard Kaufman, and me; and
- (b) for the FTC: Yan Fang and John Jacobs (as they identified themselves to me).

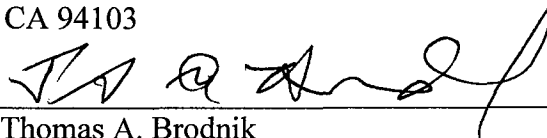


Thomas A. Brodnik

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing with its exhibits is being served on the following by first class mail, postage prepaid, this 19th day of March, 2014:

Yan Fang, Esq.
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103



Thomas A. Brodnik

G19/F19438ark

**EXHIBIT A TO
TCN PETITION TO
QUASH OR LIMIT**

PUBLIC

AFFIDAVIT OF MARK IVORY

STATE OF INDIANA §
 §
COUNTY OF MARION §

BEFORE ME, the undersigned authority, on this day personally appeared Mark Ivory, who, being first duly sworn on his oath, stated as follows:

1. My name is Mark Ivory. I am over the age of eighteen (18) years old, am competent to make this affidavit and have personal knowledge of the facts set forth herein.

2. I am Vice President of Corporate Development for The College Network, Inc. (“TCN”), and have served in that capacity for over eight (8) years. I am also the “point man” within the company for locating, gathering and reviewing documents and other information in response to the Federal Trade Commission’s Civil Investigative Demand (the “CID”), and coordinating the same with our attorneys. TCN is an educational services and publishing company that creates and markets self-paced educational materials (referred to as Comprehensive Learning Modules or “CLMs”) to adults seeking to complete and-of-course college-level equivalency exams for purposes of degree completion. TCN is not a school and does not confer degrees. During the responsive period, TCN has marketed its products and services directly and through approximately 140 independent contractors nationwide. To date, TCN has sold services and products to over 200,000 customers.

3. The CID was received by TCN on January 21, 2014, and an accurate copy of the CID as received by TCN is attached hereto as Exhibit 1 (except for the addition of the word “PUBLIC” on each page).

4. In gathering documents and information for purposes of the CID, I have had to contact and coordinate with every department within the company. From the date of my involvement in this matter, shortly after we received the CID, it is my estimate that in excess of

several hundred hours have been devoted to this project by the company. A large percentage of these hours have been devoted by senior management, including myself. At minimum, I estimate several thousand more hours will be devoted to responding to the CID to which no objection is made.

5. To fully comply with the CID as written, there is neither enough manpower nor enough time, even if the entire company devoted its full time to the project. Producing these materials would have a disruptive effect on operations, as literally, many departments within the company would be required to “shut down” day-to-day operations in running the company, and concentrate full-time on responding to the CID.

6. As examples only, (a) Interrogatory Specification A.3. asks for an identification of all person, including former employees, independent contractors, affiliates and agents, “with knowledge about” TCN’s products (among other things), which would require, at minimum, everyone in the company, every independent contractor who sells TCN’s materials and every person who works for them, every lead vendor who works for the company and every person who works for them, and many others; (b) Interrogatory Specification D.19. asks for, among other things, a host of information for any consumer who has “complained” to the company, regardless of whether that “complaint” relates to the company, which would require a manual review of every customer’s file (see affidavit of Gary Fair); and (c) Document Specification F.20 requires the production of “all” advertisements, including those on “all websites and webpages (whether or not operated by the Company)” and includes “source code” and “programs,” which is likely proprietary to third parties. There is literally not enough manpower in the company to even begin to comply with just these three requests.

7. The CID also requires the production of databases. Among other items, the customer database would include: (a) customer names; (b) addresses; (c) other contact

information; (d) employer; (e) employer's telephone number; (f) the length of time the customer has worked in their field; (g) the last four digits of the SSN; (h) the customer's maiden name; (i) the customer's annual income; (j) credit score; (k) the customer's date of licensure; (l) state of license; (m) license issuance and expiration date; and (n) driver's license number and expiration date. The database contains an enormous amount of personal identification data, as well as confidential information of the customer, none of which has any bearing on alleged "deceptive or unfair acts or practices . . . in advertising, marketing or sale . . . products or services . . ."


8. Interrogatory Specification D.19 requires TCN to state, for every customer, a host of information, including name, address, email address and telephone number, the price paid for each Educational Service (as defined in the CID, each individual degree program, CLM, equivalency examination and academic support), whether the customer "complained" about anything (see affidavit of Gary Fair), whether a refund was provided by each Educational Service, and how the customer learned of each Educational Service, among other matters. TCN does not track data by each CLM, exam or by individual Educational Service (as defined in the CID) purchased, refunded or otherwise. Rather, data is tracked by customer. Accordingly, to determine this information by each individual Educational Service would require a manual review of, and corresponding tracking or determination of, tens of thousands of customer files, if such information could be ferreted out at all. The same can be said for the information required by Interrogatory Specification F.32. A manual review of all customer records would be required to ferret out this information. To undertake a task of manually reviewing all customer records (over 200,000) would be impossible for the company to undertake without ceasing normal operations, or would require, by my estimate, months or years to complete, depending on the manpower devoted to the project. Moreover, the accuracy of the project, due to its manually intensive nature, would be subject to doubt.

FURTHER AFFIANT SAITH NOT.



MARK IVORY

SWORN TO AND SUBSCRIBED before me on this 1st day of March, 2014, by Mark Ivory,
to certify which witness my hand and seal of office.



(Suzanne A. Peterson) Notary Public

My Commission Expires:
11/07/16

My County of Residence is:
Hancock

EXHIBIT 1 TO MARK IVORY AFFIDAVIT

PUBLIC



United States of America
Federal Trade Commission

CIVIL INVESTIGATIVE DEMAND

1. TO

The College Network, Inc.
3815 River Crossing Parkway, Suite 260
Indianapolis, IN 46240

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED

You are required to appear and testify.

LOCATION OF HEARING

YOUR APPEARANCE WILL BE BEFORE

DATE AND TIME OF HEARING OR DEPOSITION

You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.

You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS MUST BE AVAILABLE

FEB 20 2014

3. SUBJECT OF INVESTIGATION

See attached resolution.

4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN

Thomas Dahdouh/Kelly Ortiz
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103

5. COMMISSION COUNSEL

Yan Fang, Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5150

DATE ISSUED

1/16/14

COMMISSIONER'S SIGNATURE

INSTRUCTIONS AND NOTICES

The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 5.

YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCRulesofPractice>. Paper copies are available upon request.

Form of Certificate of Compliance*

I/We do certify that all of the documents and information required by the attached Civil Investigative Demand which are in the possession, custody, control, or knowledge of the person to whom the demand is directed have been submitted to a custodian named herein.

If a document responsive to this Civil Investigative Demand has not been submitted, the objections to its submission and the reasons for the objection have been stated.

If an interrogatory or a portion of the request has not been fully answered or a portion of the report has not been completed, the objections to such interrogatory or uncompleted portion and the reasons for the objections have been stated.

Signature _____

Title _____

Sworn to before me this day

Notary Public

*In the event that more than one person is responsible for complying with this demand, the certificate shall identify the documents for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided for by 28 U.S.C. § 1746.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS IN A NON-PUBLIC
INVESTIGATION OF SECONDARY OR POSTSECONDARY
EDUCATIONAL PRODUCTS OR SERVICES OR
EDUCATIONAL ACCREDITATION PRODUCTS OR SERVICES

File No. P138402

Nature and Scope of Investigation:

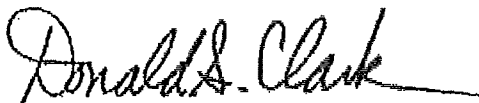
To determine whether unnamed persons, partnerships, corporations, or others have engaged or are engaging in deceptive or unfair acts or practices in or affecting commerce in the advertising, marketing, or sale of secondary or postsecondary educational products or services, or educational accreditation products or services, in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended. The investigation is also to determine whether Commission action to obtain redress for injury to consumers or others would be in the public interest.

The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this investigation for a period not to exceed five (5) years from the date of issuance of this resolution. The expiration of this five-year period shall not limit or terminate the investigation or the legal effect of any compulsory process issued during the five-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the five-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; and FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.



Donald S. Clark
Secretary

Issued: November 14, 2013

PUBLIC

**CIVIL INVESTIGATIVE DEMAND
SCHEDULE FOR PRODUCTION OF DOCUMENTS AND
ANSWERS TO WRITTEN INTERROGATORIES**

I. DEFINITIONS

- A. As used in this Civil Investigative Demand, the following definitions shall apply:
- B. "Advertisement" or "advertising" or "ad" shall mean any written or verbal statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in the purchasing of goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on-hold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the Internet, or any other medium. Promotional materials such as press releases, video news releases, and coupons are included in the terms "advertisement," "advertising," and "ad."

A request for a copy of each different advertisement shall mean:

1. In the case of print advertisements, including transit/outdoor, direct mail, and free standing inserts, the ad in the form made available for customers to read.
2. In the case of radio advertisements, other audio programming or conference calls, a cassette tape or compact disc (CD) recording and a written script for each advertisement.
3. In the case of television advertisements, including infomercials, a DVD, as well as a photoboard or a transcription for each advertisement.
4. In the case of advertisements displayed or accessible as Web pages on the Internet or in a similar format on a commercial online service, a printout of all screens or pages displayed or accessible online; the date the information was initially placed online; and all information necessary to view or access the information online (*i.e.*, for Web pages, all electronic addresses, or URLs, at which the information is accessible, including any "mirrored" sites and all documents showing metatags for the pages). For similar advertising on commercial online services, provide the name of the commercial online services and the appropriate "Key," "Go," or "Jump" words; a transcript of any audio or video clips contained in the screens or pages; and identification of any audio, video, or other programs necessary to hear or view the clips; and the name, mailing address, and telephone number of any entity with whom you arranged for placement of the information online (*i.e.*, the owner of the Internet domain name(s) and, if different, the owner of the server(s) through which the Web page is made accessible on the Internet).

Civil Investigative Demand issued to The College Network, Inc.

5. In the case of files archived or accessible online (e.g., at FTP sites, on bulletin boards, or as part of a Web page), the filename and file date of the file, along with the date it initially was posted online; a printout of the file, if feasible; all information necessary to locate, download, and view the file, including, where applicable, the name of the bulletin board and the category, topic, or file area where the file is located; and the identity of any software necessary to decompress the files. In the case of files archived on forums or bulletin boards found in commercial online services, provide the name of the online service and the "Key," "Go," or "Jump" words to access the bulletin board; in the case of files archived or accessible on the Internet at FTP sites, at USENET sites, or on Web pages, all electronic addresses at which the file is available, including any "mirrored" sites; in the case of files archived on dial-in bulletin boards, provide the telephone number to access the bulletin board, and the name, business telephone number, and mailing address of the owner or operator of the bulletin board.
 6. In the case of messages posted on bulletin boards, a printout of the message posted, the date(s) it was posted, and information sufficient to locate and access the bulletin board areas where the information was posted.
 7. In the case of messages disseminated via email, a printout of the email message, the date(s) it was sent, and the electronic address from which the message was sent. In addition, if a LISTSERV or other mass mailing mechanism was utilized, provide the name of the LIST used to send the message, the email address for subscribing to the LISTSERV or similar mechanism, and, if different, the email address to which messages are submitted for mass mailing.
- C. "And," as well as "or," shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any specification in this Schedule all information that otherwise might be construed to be outside the scope of the specification.
- D. "Any" shall be construed to include "all," and "all" shall be construed to include the word "any."
- E. "CID" shall mean the Civil Investigative Demand, including the attached Resolution and this Schedule, and including the Definitions, Instructions, and Specifications.
- F. "CLM" shall mean Comprehensive Learning Module.
- G. "Company" shall mean The College Network, Inc. and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, including College Network Inc. and The College Network Inc., and all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing.
- H. "Document" shall mean the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of

Civil Investigative Demand issued to The College Network, Inc.

origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book or label. **“Document” shall also include all documents, materials, and information, including Electronically Stored Information, within the meaning of the Federal Rules of Civil Procedure.**

- I. **“Each” shall be construed to include “every,” and “every” shall be construed to include “each.”**
- J. **“Educational Service” shall mean any degree program, CLM, equivalency exam, or academic support offered by the Company to individual consumers.**
- K. **“Electronically Stored Information” or “ESI” shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by you into a reasonably usable form. This includes, but is not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks; computer hard drives, network shares or servers, or other drives; cloud-based platforms; cell phones, PDAs, computer tablets, or other mobile devices; or other storage media.**
- L. **“FTC” or “Commission” shall mean the Federal Trade Commission.**
- M. **“Identify” or “the Identity of” shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home address; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors, or managers of the business or organization, and contact persons, where applicable.**
- N. **“Personal Information” shall mean individually identifiable information from or about an individual consumer including: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver’s license or other state-issued identification number; (g) a financial institution account number; or (h) other credit card, debit card, or financial account information.**
- O. **“Referring to” or “relating to” shall mean discussing, describing, reflecting, containing,**

Civil Investigative Demand issued to The College Network, Inc.

analyzing, studying, reporting, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

- P. "University Partner" shall mean Angelo State University, Bellevue University, Boston University, Cornell University, eCornell, Excelsior College, Duke University, Corporate Education Group, Indiana State University, Lake Superior State University, Purdue University, Regis University, Tulane University, Codesmart University, Sonoma State University, Splash Media University, or any other college, university, or educational institution identified by the Company as having a partnership, affiliation, or relationship with the Company.
- Q. "You" and "your" shall mean the person or entity to whom this CID is issued.

II. INSTRUCTIONS

A. **Sharing of Information:** The Commission often makes its files available to other civil and criminal federal, state, local, or foreign law enforcement agencies. The Commission may make information supplied by you available to such agencies where appropriate pursuant to the Federal Trade Commission Act and 16 C.F.R. § 4.11(c) and (j). Information you provide may be used in any federal, state, or foreign civil or criminal proceeding by the Commission or other agencies.

B. **Meet and Confer:** You must contact Yan Fang at (415) 848-5150 as soon as possible to schedule a meeting (telephonic or in person) to be held within fourteen (14) days after receipt of this CID, or before the deadline for filing a petition to quash, whichever is first, in order to discuss compliance and to address and attempt to resolve all issues, including issues relating to protected status and the form and manner in which claims of protected status will be asserted, and the submission of ESI and other electronic productions as described in these Instructions. Pursuant to 16 C.F.R. § 2.7(k), you must make available personnel with the knowledge necessary for resolution of the issues relevant to compliance with this CID, including but not limited to personnel with knowledge about your information or records management systems, relevant materials such as organizational charts, and samples of material required to be produced. If any issues relate to ESI, you must make available a person familiar with your ESI systems and methods of retrieval.

C. **Applicable time period:** Unless otherwise directed in the specifications, the applicable time period for the request shall be from January 1, 2011 until the date of full and complete compliance with this CID.

D. **Claims of Privilege:** If any material called for by this CID is withheld based on a claim of privilege, work product protection, or statutory exemption, or any similar claim (*see* 16 C.F.R. § 2.7(a)(4)), the claim must be asserted no later than the return date of this CID. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Submit the log in a searchable electronic format, and, for each

Civil Investigative Demand issued to The College Network, Inc.

document, including attachments, provide:

1. Document control number(s);
2. The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
3. A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;
4. The date the material was created;
5. The date the material was sent to each recipient (if different from the date the material was created);
6. The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
7. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
8. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
9. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
10. The factual basis supporting the claim that the material is protected; and
11. Any other pertinent information necessary to support the assertion of protected status by operation of law.

16 C.F.R. § 2.11(a)(1)(i)-(xi).

In the log, identify by an asterisk each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log. However, provide in the log the information required by Instruction E.6. 16 C.F.R. § 2.11(a)(2). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest to the log. 16 C.F.R. § 2.11(a)(1).

If only some portion of any responsive material is privileged, all non-privileged portions of the material must be submitted. Otherwise, produce all responsive information and material without redaction. 16 C.F.R. § 2.11(c). The failure to provide information sufficient to support a claim of protected status may result in denial of the claim. 16 C.F.R. § 2.11(a)(1).

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E. **Document Retention:** You shall retain all documentary materials used in the preparation of responses to the specifications of this CID. The Commission may require the submission of additional documents at a later time during this investigation. Accordingly, you should suspend any routine procedures for document destruction and take other measures to prevent the destruction of documents that are in any way relevant to this investigation during its pendency, irrespective of whether you believe such documents are protected from discovery by privilege or otherwise. *See* 15 U.S.C. § 50; *see also* 18 U.S.C. §§ 1505, 1519.

F. **Petitions to Limit or Quash:** Any petition to limit or quash this CID must be filed with the Secretary of the Commission no later than twenty (20) days after service of the CID, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of protected status or other factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. 16 C.F.R. § 2.10(a)(1). Such petition shall not exceed 5,000 words as set forth in 16 C.F.R. § 2.10(a)(1) and must include the signed separate statement of counsel required by 16 C.F.R. § 2.10(a)(2). **The Commission will not consider petitions to quash or limit absent a pre-filing meet and confer session with Commission staff and, absent extraordinary circumstances, will consider only issues raised during the meet and confer process.** 16 C.F.R. § 2.7(k); *see also* § 2.11(b).

G. **Modification of Specifications:** If you believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission's need for documents or information, you are encouraged to discuss such possible modifications, including any modifications of definitions and instructions, with the Commission counsel named above. All such modifications must be agreed to in writing by the Bureau Director, or a Deputy Bureau Director, Associate Director, Regional Director, or Assistant Regional Director. 16 C.F.R. § 2.7(l).

H. **Certification:** You shall certify that the response to this CID is complete. This certification shall be made in the form set out on the back of the CID form, or by a declaration under penalty of perjury as provided by 28 U.S.C. § 1746.

I. **Scope of Search:** This CID covers documents and information in your possession or under your actual or constructive custody or control, including but not limited to documents and information in the possession, custody, or control of your attorneys, accountants, directors, officers, employees, and other agents and consultants, whether or not such documents and information were received from or disseminated to any person or entity.

J. **Document Production:** You shall produce the documentary material by making all responsive documents available for inspection and copying at your principal place of business. Alternatively, you may elect to send all responsive documents to **Kelly Ortiz, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103**. Notice of your intended method of production shall be given by email or telephone to **Yan Fang** at **yfang@ftc.gov** or **(415) 848-5150** at least five (5) days prior to the return date.

K. **Document Identification:** Documents that may be responsive to more than one specification of this CID need not be submitted more than once; however, your response should

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indicate, for each document submitted, each specification to which the document is responsive. If any documents responsive to this CID have been previously supplied to the Commission, you may comply with this CID by identifying the document(s) previously provided and the date of submission. Documents should be produced in the order in which they appear in your files or as electronically stored and without being manipulated or otherwise rearranged; if documents are removed from their original folders, binders, covers, containers, or electronic source in order to be produced, then the documents shall be identified in a manner so as to clearly specify the folder, binder, cover, container, or electronic media or file paths from which such documents came. In addition, number by page (or file, for those documents produced in native electronic format) all documents in your submission, preferably with a unique Bates identifier, and indicate the total number of documents in your submission.

L. Production of Copies: Unless otherwise stated, legible photocopies (or electronically rendered images or digital copies of native electronic files) may be submitted in lieu of original documents, provided that the originals are retained in their state at the time of receipt of this CID. Further, copies of originals may be submitted in lieu of originals only if they are true, correct, and complete copies of the original documents; provided, however, that submission of a copy shall constitute a waiver of any claim as to the authenticity of the copy should it be necessary to introduce such copy into evidence in any Commission proceeding or court of law; and provided further that you shall retain the original documents and produce them to Commission staff upon request. Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.

M. Electronic Submission of Documents: The following guidelines refer to the production of any Electronically Stored Information ("ESI") or digitally imaged hard copy documents. Before submitting any electronic production, You must confirm with the Commission counsel named above that the proposed formats and media types will be acceptable to the Commission. The FTC requests Concordance load-ready electronic productions, including DAT and OPT load files.

- (1) **Electronically Stored Information:** Documents created, utilized, or maintained in electronic format in the ordinary course of business should be delivered to the FTC as follows:
 - (a) Spreadsheet and presentation programs, including but not limited to Microsoft Access, SQL, and other databases, as well as Microsoft Excel and PowerPoint files, must be produced in native format with extracted text and metadata. Data compilations in Excel spreadsheets, or in delimited text formats, must contain all underlying data un-redacted with all underlying formulas and algorithms intact. All database productions (including structured data document systems) must include a database schema that defines the tables, fields, relationships, views, indexes, packages, procedures, functions, queues, triggers, types, sequences, materialized views, synonyms, database links, directories, Java, XML schemas, and other elements, including the use of any report writers and custom user data interfaces;

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- (b) All ESI other than those documents described in (1)(a) above must be provided in native electronic format with extracted text or Optical Character Recognition (OCR) and all related metadata, and with corresponding image renderings as converted to Group IV, 300 DPI, single-page Tagged Image File Format (TIFF) or as color JPEG images (where color is necessary to interpret the contents);
 - (c) Each electronic file should be assigned a unique document identifier ("DocID") or Bates reference.
- (2) **Hard Copy Documents:** Documents stored in hard copy in the ordinary course of business should be submitted in an electronic format when at all possible. These documents should be true, correct, and complete copies of the original documents as converted to TIFF (or color JPEG) images with corresponding document-level OCR text. Such a production is subject to the following requirements:
 - (a) Each page shall be endorsed with a document identification number (which can be a Bates number or a document control number); and
 - (b) Logical document determination should be clearly rendered in the accompanying load file and should correspond to that of the original document; and
 - (c) Documents shall be produced in color where necessary to interpret them or render them intelligible;
- (3) For each document electronically submitted to the FTC, You should include the following metadata fields in a standard ASCII delimited Concordance DAT file:
 - (a) **For email:** begin Bates or unique document identification number ("DocID"), end Bates or DocID, mail folder path (location of email in personal folders, subfolders, deleted or sent items), custodian, from, to, cc, bcc, subject, date and time sent, date and time received, and complete attachment identification, including the Bates or DocID of the attachments (AttachIDs) delimited by a semicolon, MD5 or SHA Hash value, and link to native file;
 - (b) **For email attachments:** begin Bates or DocID, end Bates or DocID, parent email ID (Bates or DocID), page count, custodian, source location/file path, file name, file extension, file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;
 - (c) **For loose electronic documents (as retrieved directly from network file stores, hard drives, etc.):** begin Bates or DocID, end Bates or DocID, page count, custodian, source media, file path, filename, file extension,

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file size, author, date and time created, date and time modified, date and time printed, MD5 or SHA Hash value, and link to native file;

- (d) **For imaged hard copy documents:** begin Bates or DocID, end Bates or DocID, page count, source, and custodian; and where applicable, file folder name, binder name, attachment range, or other such references, as necessary to understand the context of the document as maintained in the ordinary course of business.
- (4) If You intend to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in Your computer systems or electronic storage media, or if Your computer systems contain or utilize such software, You must contact the Commission counsel named above to determine whether and in what manner You may use such software or services when producing materials in response to this Request.
- (5) Submit electronic productions as follows:
- (a) With passwords or other document-level encryption removed or otherwise provided to the FTC;
 - (b) As uncompressed electronic volumes on size-appropriate, Windows-compatible, media;
 - (c) All electronic media shall be scanned for and free of viruses;
 - (d) Data encryption tools may be employed to protect privileged or other personal or private information. The FTC accepts TrueCrypt, PGP, and SecureZip encrypted media. The passwords should be provided in advance of delivery, under separate cover. Alternate means of encryption should be discussed and approved by the FTC.
 - (e) Please mark the exterior of all packages containing electronic media sent through the U.S. Postal Service or other delivery services as follows:

**MAGNETIC MEDIA – DO NOT X-RAY
MAY BE OPENED FOR POSTAL INSPECTION.**

- (6) All electronic files and images shall be accompanied by a production transmittal letter that includes:
- (a) A summary of the number of records and all underlying images, emails, and associated attachments, native files, and databases in the production; and
 - (b) An index that identifies the corresponding consecutive document identification number(s) used to identify each person's

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documents and, if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that the Commission counsel named above determines prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission counsel named above will provide a sample index upon request.

A Bureau of Consumer Protection Production Guide is available upon request from the Commission counsel named above. This guide provides detailed directions on how to fully comply with this instruction.

N. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information or sensitive health information of any individual, please redact all such information except for name, address, and phone number. If that information will not be redacted, contact us to discuss encrypting any electronic copies of such material with encryption software such as SecureZip and provide the encryption key in a separate communication.

For purposes of these requests, sensitive personally identifiable information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth; Social Security number; driver's license number or other state identification number or a foreign country equivalent; passport number; financial account number; credit card number; or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

O. Information Identification: Each specification and subspecification of this CID shall be answered separately and fully in writing under oath. All information submitted shall be clearly and precisely identified as to the specification(s) or subspecification(s) to which it is responsive.

P. Certification of Records of Regularly Conducted Activity: Attached is a Certification of Records of Regularly Conducted Activity, which may reduce the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Certification and provide it with your response.

Q. This CID is issued in conformance with the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. § 3401, et seq. To the extent you believe you are a "financial institution," as the term is defined under RFPA, please contact Yan Fang at (415) 848-5150 before providing responsive documents.

R. In light of the nonpublic nature of this investigation, please do not disclose the receipt of the Civil Investigative Demand before complying with the requests herein, except as required by law or court order. In addition, if you determine for any reason that compliance with any

specification seeking student information requires you to provide advance notice to the student, please contact Yan Fang at (415) 848-5150.

III. SPECIFICATIONS FOR INTERROGATORY RESPONSES

A. Company Background Information

1. State the following information for the Company: full legal name, all other names under which the Company has done business, principal address, telephone number, state and date of formation, legal status, purpose(s), organization, and business structure. Your response should include all entities within the meaning of Definition G for "Company," as well as any predecessors, affiliates, franchises, and divisions of the Company.
2. Identify all officers, directors, principals, and owners of the Company, and all shareholders with five percent or more ownership of the Company, stating each shareholder's percentage of ownership.
3. Identify the names, job titles, departments or divisions, and contact information of all current and former officers, employees, independent contractors, affiliates, or agents with responsibilities relating to, or with knowledge about:
 - a. the nature of the Company's partnerships, affiliations, or relationships with colleges and universities, and any other educational institutions;
 - b. the number of students who enrolled in any Educational Service and obtained a degree;
 - c. the acceptance of any Educational Service for course credit by colleges and universities; and
 - d. the experience, skills, and substantive expertise of "Academic Advisors" and any other individuals who responded to academic support calls and Internet chats.

B. Products and Services

4. Describe each Educational Service sold or offered by the Company. For each such service, your description should include the following:
 - a. the name of the service;
 - b. the benefits provided by the service;
 - c. the fee schedule, the discount policy, and any discounts;
 - d. the cancellation policy;
 - e. the refund policy;
 - f. the average length of time between enrollment and actual access to the service;
 - g. the period of time in which the service has been offered;
 - h. the target audience of the service;
 - i. *for each CLM*, the availability of the CLM in online, paper, or other formats; and
 - j. *for each degree program*, (i) any state approvals obtained and the dates such approvals were first obtained; and (ii) any accreditations obtained and the dates such accreditations were first obtained.

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5. Describe any other product or service sold or offered by the Company, including but not limited to products and services for higher education institutions, hospitals, long-term care companies, healthcare organizations, nursing or other trade associations, and University Partners. Your description should include the following:
 - a. the name of the service;
 - b. the benefits provided by the service;
 - c. the fee schedule, the discount policy, and any discounts;
 - d. the cancellation policy;
 - e. the refund policy;
 - f. the average length of time between enrollment and actual access to the service;
 - g. the period of time in which the service has been offered; and
 - h. the target audience of the service.
6. Identify any university, college, and educational institution or organization (including but not limited to the American Council on Education) with which the Company has a partnership, affiliation, or any other relationship. For each such entity, describe the nature of the relationship and state the following:
 - a. any state approvals obtained and the dates such approvals were first obtained;
 - b. any accreditations obtained and the dates such accreditations were first obtained;
 - c. the Company's contact person at that entity; and
 - d. the dates when that relationship started and ended or suspended, if applicable.
7. Identify any accrediting organization, hospital, long-term care company, healthcare organization, and nursing or other trade association with which the Company has a partnership, affiliation, or any other relationship. For each such entity, describe the nature of the relationship and state the dates when that relationship started and ended or suspended, if applicable. Your response should describe any relationships between the Company and each of the following entities:
 - a. Accreditation Commission for Education in Nursing;
 - b. National League for Nursing Accrediting Commission;
 - c. National League for Nursing;
 - d. American Nurses Credentialing Center;
 - e. Nurses Organization of Veterans Affairs; and
 - f. National Black Nurses Association.
8. Describe the Company's policies, practices, and procedures for creating and revising substantive content for CLMs. Your description should include:
 - a. the annual number of Company employees, independent contractors, affiliates, or agents, and any other individuals involved in these practices; and
 - b. the qualifications of such individuals, including any affiliations with colleges, universities, companies, hospitals, or trade or industry associations.
9. Describe the duties and responsibilities of "Academic Advisors" and "Program Advisors," including any policies, practices, or procedures they undertake to assess the acceptance of previously earned credits, CLMs, and equivalency exams for course credit by colleges and universities.

10. Identify the “pre-selected financial sources” described in the following statement from the Company: “The College Network will help you finance our portion of the program through simple-interest loans with pre-selected financial sources—regardless of your credit history.”¹
11. Describe the Company’s policies, practices, and procedures for:
 - a. billing;
 - b. facilitating loans to consumers to purchase any Educational Service;
 - c. collecting debts owed by consumers for any Educational Service; and
 - d. administering, refunding, and returning any fees financed through loans taken by consumers to pay for equivalency exams, including exams offered by the Company or through third parties such as College Level Examination Program (“CLEP”), Dantes Subject Standardized Tests (“DSST”), Excelsior College, and Regis University.
12. For consumers’ loans facilitated or guaranteed by the Company, describe:
 - a. the types of loans;
 - b. the range of interest rates;
 - c. the typical default, repayment, and collection provisions, identifying any differences; and
 - d. for each year and the current year, identify the number and percentage of consumers in default.
13. Describe any agreements, arrangements, or relationships between the Company and each of the following entities (including each entity’s wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing):
 - a. Southeast Financial Federal Credit Union; and
 - b. American Credit Exchange, Inc.
14. Identify all toll-free phone numbers associated with any Company product or service, including each number for sales, enrollment, recruitment, customer service, and academic support. Your response should briefly describe the product(s) or service(s) associated with each such number.

C. Revenue, Volume, Refunds, Expenditures

15. For each year and the current year, provide:
 - a. the Company’s total gross sales revenue;
 - b. the Company’s average revenue per consumer; and
 - c. for each product or service:
 - i. the Company’s total gross sales revenue;
 - ii. the total number sold;
 - iii. the total number of consumers who bought each product or service;

¹ Answers to Your Frequently Asked Questions, <http://www.collegenetwork.com/research/FAQs.aspx>.

- iv. the total amount the Company refunded to consumers; and
- v. the total chargeback, return, and refund volume and rate.

16. For each year and the current year, rank and describe:

- a. the top five best-selling degree programs;
- b. the top five best-selling certificate programs;
- c. the top ten best-selling CLMs;
- d. the top ten best-selling equivalency exams;
- e. the top three best-selling nursing programs;
- f. the top ten best-selling CLMs for nursing programs; and
- g. the top ten best-selling equivalency exams for nursing programs.

For each such top-selling program, CLM, and exam, your description should include: (a) the Company's total gross sales revenue; (b) the total number sold; (c) the total number of consumers who bought each service; (d) the total amount the Company refunded to consumers; and (e) the total chargeback, return, and refund volume and rate.

17. For each year and the current year, state:

- a. the annual dollar amount spent on advertising and marketing expenditures for each Educational Service; *and* provide a breakdown of expenditures for each advertising medium and marketing method used;
- b. the annual dollar amount spent on creating and updating CLMs and equivalency exams, including any compensation to Company staff, independent contractors, affiliates, or agents, and any other individuals involved in creating or revising substantive content for CLMs; and
- c. the annual dollar amount spent on academic support, including all compensation to "Academic Advisors."

18. Describe the Company's compensation structure for any category of employee paid on a full or partial commission basis.

D. Enrollment, Cancellations, and Consumer Inquiries

19. For each consumer who purchased any Educational Service, provide the following information:

- a. the consumer's name, mailing address, email address, and telephone number;
- b. the names and the fees or price of that service, including any discounts offered to or received by the consumer;
- c. the period of time in which the consumer was enrolled in that service;
- d. the dates of purchases, orders, enrollments, and cancellations related to that service;
- e. whether the consumer cancelled or attempted to cancel that service before or after the cancellation period ended;
- f. whether the consumer complained to the Company;
- g. whether the consumer received any refund from or reached any settlement with the Company with respect to that service;

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- h. the amounts and dates of any refunds, including chargebacks or settlements paid to the consumer with respect to that service;
- i. how the consumer learned about the Company or any Educational Service;
- j. *for any consumer who enrolled in a Company associate's degree, bachelor's degree, or master's degree program*, whether that consumer subsequently:
 - i. (a) enrolled in a degree-granting college or university, and (b) obtained a degree from that institution; and
 - ii. withdrew (a) within one year of enrolling, (b) within two years of enrolling, and (c) before earning their degree;
- k. *for any consumer who enrolled in a Company LPN/LVN to BSN program*, whether that consumer:
 - i. applied to take an NCLEX-RN exam;
 - ii. sat for that exam; and
 - iii. passed or failed that exam, including the consumer's exam score; and
- l. *for any consumer who enrolled in a CLM*, whether that consumer subsequently:
 - i. completed that CLM, including the percentage of the CLM completed and the amount of time logged on the CLM;
 - ii. registered for any equivalency exam (including any such exam offered by the Company, CLEP, DSST, Excelsior College, Regis University, or any other college or university, including any University Partner), *and* the name and subject of any such exam; and
 - iii. passed or failed any such exam, including the consumer's exam score.

In lieu of a narrative response to this interrogatory, you may produce materials in an electronic database format acceptable to the FTC.

- 20. Describe the circumstances under which the Company records any telephone conversations, Internet chats, or any other communications between the Company and any person relating to (a) any Educational Service; or (b) billing, loans, or collections for any Educational Service.
- 21. Describe the manner in which the Company maintains any tapes or other recordings of telephone conversations, Internet chats, or any other communications relating to any Educational Service or billing, loans, or collections for any Educational Service; where such recordings are maintained; and the persons who have access to the recordings.

E. Marketing

- 22. Describe the Company's marketing policies, practices, and procedures for:
 - a. outbound and inbound consumer phone calls;
 - b. do-not-call requests;
 - c. Internet chats with consumers;
 - d. email communications with consumers; and
 - e. in-person communications with consumers, including presentations, meetings, or conversations held or occurring at conferences, conventions, symposia, meetings, lectures, classes, trainings, workshops, offices, hospitals, long-term care

facilities, and private homes.

23. Identify any agreements or arrangements between the Company and any other entity or individual to initiate or respond to, on behalf of the Company, consumer telephone calls or Internet chats.

F. Advertising

24. Identify by name and uniform resource locator ("URL") each website owned or operated by or on behalf of the Company.

25. Identify each individual or company (including but not limited to advertising agencies) that has participated in the development, preparation, or placement of any advertisement responsive to Document Specification F.20, including any individual or company that designed or programmed any website identified in Interrogatory Specification F.24 or responsive to Document Specification F.20. Your response should briefly describe the services that each individual or company has provided.

26. State the media in which advertisements for any Educational Service have appeared, including direct mailings, flyers, posters, television and radio advertisements, email, websites (whether or not operated by the Company), blogs, Internet pop-up and banner advertisements, review sites, sponsored links, search and keyword ads, YouTube, Twitter, Facebook, LinkedIn, Pinterest, and any other social network website. Your response should include advertisements disseminated by the Company and by any affiliated marketer.

27. Describe the Company's substantiation or support for each of the following claims made in your advertisements, regardless of whether you believe that the claim is made:

- a. The Company partners with accredited colleges and universities.²
- b. Consumers who complete the Company's degree programs obtain degrees from colleges and universities, including from University Partners.³
- c. Consumers who complete the Company's CLMs obtain course credit from colleges and universities, including from University Partners.⁴

28. Describe the Company's substantiation or support for each of the following statements made in your advertisements, regardless of whether you believe that the claim is made:

- a. "The degree you will earn from one of The College Network's partner universities has been accepted by hundreds of the country's most prestigious

² See, e.g., Answers to Your Frequently Asked Questions, *supra* note 1.

³ See, e.g., The Pathway to a College Degree Video, available at <http://www.collegenetwork.com/>.

⁴ See, e.g., Nursing Degrees, <http://www.collegenetwork.com/programs/DegreePrograms/NursingDegrees.aspx>.

graduate institutions.”⁵

- b. “The College Network offers Comprehensive Learning Modules to help you complete your general education and elective courses (up to 91 credit hours) through end-of-course college equivalency exams such as CLEP®, DSST®, Excelsior College® Examination, or the Regis University exam. You then can transfer your college equivalency exam scores to one of our partner universities for college credit and complete your degree program.”⁶
- c. “Your credits from these courses can then be transferred to one of our partner universities, or thousands of schools nationwide, where you will complete your degree.”⁷
- d. “The online LPN/LVN to BS in Nursing program from Indiana State University is available in 38 states and territories, including much of the San Francisco Bay and Sacramento areas of California. Graduates of the program are eligible to apply to take their RN licensure examination (NCLEX-RN) and become licensed in the students’ state upon successful completion of the examination.”⁸
- e. “Through the RN to MS in Nursing program you can earn as many as 62 credit hours of undergraduate general education coursework and six hours of graduate-level coursework using The College Network’s Comprehensive Learning Module™ program, saving you both time and money.”⁹
- f. “Because of our unique partnerships with various universities, there are no time limitations on previous general education credits in most cases.”¹⁰
- g. “The College Network has helped thousands of people successfully pass college equivalency exams.”¹¹
- h. “Associate’s degree programs usually take 18 to 20 months or less to complete. Bachelor’s programs usually can be completed in 24 months or less. Master’s programs typically take between 18 and 24 months.”¹²
- i. “Your professionally written learning modules contain the information necessary to be successful on the college equivalency exam—we even guarantee it!”¹³

⁵ Answers to Your Frequently Asked Questions, *supra* note 1.

⁶ *Id.*

⁷ Nursing Degrees, *supra* note 4.

⁸ LVN to BS in Nursing FAQs for California Residents,

<http://www.collegenetwork.com/programs/DegreePrograms/NursingDegrees/LPB/FAQs.aspx>.

⁹ RN to MSN Without Sitting in a Classroom,

<http://www.collegenetwork.com/programs/DegreePrograms/NursingDegrees/RNMSN.aspx>.

¹⁰ Answers to Your Frequently Asked Questions, *supra* note 1.

¹¹ *Id.*

¹² *Id.*

¹³ Associate’s Degree in Nursing (ADN) Brochure, available at http://155d36aa7d6656f0cbe2-6fa7368cb08cf3c44af305ad6eca8f82.r62.cf1.rackcdn.com/EXC_ADN_700.pdf.

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- j. "From academic assessment to graduation, The College Network will be there for you every step of the way!"¹⁴
 - k. "Most of our customers save up to 50 percent over traditional, campus-based college degree programs."¹⁵
 - l. "Chat with Live Academic."¹⁶
29. Describe when and why the Company created and modified substantive content on each of the following webpages:
- a. Answers to Your Frequently Asked Questions;¹⁷
 - b. LPN/LVN to BS in Nursing Program Availability;¹⁸
 - c. LVN to BS in Nursing FAQs for California Residents;¹⁹
 - d. Curriculum Updates;²⁰ and
 - e. Board of Nursing Updates.²¹
30. State the average length of time used by consumers to complete each degree program advertised by the Company. Your response should state the average length of time used by consumers to complete:
- a. any Company portion of the program; and
 - b. any University Partner portion of the program.
31. Identify all states in which:
- a. completion of any Company LPN/LVN to BS nursing program fulfills any requirements to sit for the NCLEX-RN exam; and
 - b. completion of any other Company nursing program fulfills any requirements to sit for any other nursing licensing exam.
32. For each year and the current year, state:
- a. the number of students, out of the number of the students who enrolled in a Company *associate's degree program* that year:
 - i. who subsequently (a) enrolled in a degree-granting college or university, and (b) obtained a degree from that institution;

¹⁴ Meet The College Network Video, *available at*

<http://www.collegenetwork.com/research/Resources/MeetTheCollegeNetwork/MeetTheCollegeNetworkVideo.aspx>.

¹⁵ Answers to Your Frequently Asked Questions, *supra* note 1.

¹⁶ Academic Support Discussion Board,

<http://www.collegenetwork.com/customers/LearningTools/DiscussionBoard.aspx>.

¹⁷ Answers to Your Frequently Asked Questions, *supra* note 1.

¹⁸ LPN/LVN to BS in Nursing Program Availability,

<http://www.collegenetwork.com/programs/DegreePrograms/NursingDegrees/LPB/ProgramAvailability>.

¹⁹ LVN to BS in Nursing FAQs for California Residents,

<http://www.collegenetwork.com/programs/DegreePrograms/NursingDegrees/LPB/FAQs.aspx>.

²⁰ Curriculum Updates, <http://www.collegenetwork.com/customers/LearningTools/CurriculumUpdates.aspx>.

²¹ Board of Nursing Updates, <http://www.collegenetwork.com/customers/LearningTools/BONUpdates.aspx>.

Civil Investigative Demand issued to The College Network, Inc.

- ii. who subsequently withdrew (a) within one year of enrolling, (b) within two years of enrolling, and (c) before earning their degree;
- b. the number of students, out of the number of the students who enrolled in a Company *bachelor's degree program* that year:
 - i. who subsequently (a) enrolled in a degree-granting college or university, and (b) obtained a degree from that institution;
 - ii. who subsequently withdrew (a) within one year of enrolling, (b) within two years of enrolling, and (c) before earning their degree;
- c. the number of students, out of the number of the students who enrolled in a Company *master's degree program* that year:
 - i. who subsequently (a) enrolled in a degree-granting college or university, and (b) obtained a degree from that institution;
 - ii. who subsequently withdrew (a) within one year of enrolling, (b) within two years of enrolling, and (c) before earning their degree;
- d. the number of students, out of the number of the students who enrolled in a Company *LPN/LVN to BSN program* that year, who subsequently (i) applied to take an NCLEX-RN exam, (ii) sat for that exam, and (iii) passed or failed that exam; and
- e. the number of students, out of the number of the students who enrolled in a *CLM* that year, who subsequently (i) completed that CLM; (ii) registered for any equivalency exam (including any such exam offered by the Company, CLEP, DSST, Excelsior College, Regis University, or any other college or university, including any University Partner); and (iii) passed or failed any such exam.

In lieu of a narrative response to this interrogatory, you may produce materials in an electronic database format acceptable to the FTC.

33. State all steps the Company has taken to survey, test, or otherwise ascertain consumer interpretations, attitude, knowledge, perception, comprehension, recall, or any other consumer attribute with respect to:
 - a. any claim listed in Interrogatory Specification F.27;
 - b. any statement listed in Interrogatory Specification F.28; and
 - c. any advertisement responsive to Document Specification F.20.
34. Identify any endorser of the Company who appears or is referenced in any advertisement and describe each endorser's relationship to the Company. For each endorser, describe whether such person used any Company product or service; whether such person was or is to be compensated by you, and if so, the terms and amount of such compensation. Where any endorsement has been made public under a fictitious or assumed name, your response should also include the person's real name and contact information. Your response should address endorsements made by each of the following individuals:

Esther Acree, John Bonanno, Scott Amos, Anique Augustus, Sherrie B.,

Civil Investigative Demand issued to The College Network, Inc.

Holly Bales, John Byrd, Ann Celeya, Liz Close, Jeanne D., Susan Fox, Lois Horton, Olufemi Olatunji, Crystal Sandoval, Michelle Stenveck, Karen Walker, and Michael Ward.

35. For each year and the current year:
- a. describe each change, revocation, suspension, or termination of:
 - i. the Company's partnerships, affiliations, or relationships with universities, colleges, hospitals, long-term care companies, healthcare organizations, nursing or other trade associations;
 - ii. the Company's or any Educational Service's approval by federal, state, or local government entities, including any state nursing board;
 - iii. the Company's or any Educational Service's accreditation status by accrediting organizations; and
 - b. state the total number of consumers affected by each such change, revocation, suspension, or termination.
36. Describe the Company's policies, practices, and procedures (including timing and frequency) for notifying consumers about:
- a. any change or update to any Educational Service, including to any program curriculum or geographic availability; and
 - b. any change, revocation, suspension, or termination identified in Interrogatory Specification F.35.

G. Information Handling and Security

37. Describe in detail how the Company collects, maintains, processes, secures, stores, transmits, destroys, or otherwise handles Personal Information regarding Company consumers, including students and prospective students, who apply for financial aid, loans, or grants. As part of your description:
- a. Identify and describe each type of Personal Information that you collect, maintain, record, transmit, or enable your students, prospective students, or other third parties to transmit or otherwise provide in connection with any application for financial aid, loans, or grants;
 - b. Describe each means by which Personal Information responsive to Interrogatory Specification G.37.a may be transmitted (*e.g.*, by email, by facsimile) to or within the Company and all steps the Company takes to secure such transmissions;
 - c. Identify all parties, internal or external, who may use or access the Personal Information (*i.e.*, each employee, Service Provider, contractor, agent, or other person or entity, except that you do not need to identify a consumer who may use or access information regarding him- or herself) and give a step-by-step explanation of all means by which such use or access may be carried out; and

Civil Investigative Demand issued to The College Network, Inc.

- d. Describe in detail the Company's physical, administrative, or technical security measures related to safeguarding Personal Information that is responsive to Interrogatory Specification G.37.a, including but not limited to:
 - i. all steps to prevent unauthorized access to such information;
 - ii. any assessment, audit, review, or test undertaken to identify the risks to the security of such information, together with the results; and
 - iii. all employee training regarding the handling and security of such information, including the specific categories of employees who receive such training, the time at which they receive it (*e.g.*, at time of hire, annually, as needed), the length of the training, the topics covered, and how the employee understanding is assessed.

38. Describe in detail each incident of which you are aware in which Personal Information responsive to Interrogatory Specification G.37.a was or may have been shared or accessed without authorization (an "intrusion"), and, for each such incident, identify when and how you first learned about it, the details of how and when it occurred, the precise Personal Information involved, any steps you took to investigate or respond to it, and all persons with knowledge about it.

H. Litigation, Law Enforcement, and Third-Party Inquiries

39. Identify and summarize all dispute resolution proceedings (including National Advertising Division Reviews), and legal, administrative, or enforcement actions referring or relating to any Company product or service, including but not limited to any Educational Service. Describe the result of these investigations, proceedings, and actions.
40. Identify and summarize all complaints, inquiries, and communications referring or relating to any Educational Service sent to or received from any Better Business Bureau, university, college, accrediting organization, hospital, long-term care company, healthcare organization, nursing or other trade association, financial institution, credit card company, payment processor, advocacy group, media entity, and federal, state, or local government entity.
41. Describe all changes to any Educational Service in response to (a) any consumer complaints or inquiries; (b) any third-party complaints or inquiries; or (c) any dispute resolution proceedings, and legal, administrative, or enforcement actions.
42. Describe all changes to any advertising or marketing for any Educational Service, in response to (a) any consumer complaints or inquiries; (b) any third-party complaints or inquiries; or (c) any dispute resolution proceedings, and legal, administrative, or enforcement actions.
43. If, for any specification, there are documents that would be responsive to this CID, but were destroyed, mislaid, transferred, deleted, altered, or over-written, describe the document and the circumstances of the action, including the date and the person authorizing such action.

IV. SPECIFICATIONS FOR DOCUMENTARY MATERIALS

A. Company Background Information

1. Produce an organizational chart and personnel directory for each business unit of the Company that directs, controls, provides, services for, or otherwise participates in the operation or development of any of the matters relating to this CID, including but not limited to any unit responsible for advertising, marketing, sales, recruitment, enrollment, customer service, academic support, billing, loans, collections, accreditation, state approval, relationships with colleges and universities, and creation and revision of any Educational Service.

B. Products or Services

2. For each Educational Service offered by the Company, produce documents (including but not limited to email) sufficient to show the information requested by Interrogatory Specification B.4.
3. *Partnerships, affiliations, relationships:* Produce all documents (including but not limited to agreements, memoranda, and email) relating to the information requested by Interrogatory Specifications B.6 and B.7.
4. Produce all documents showing each state in which:
 - a. completion of any Company LPN/LVN to BS nursing program fulfills any requirements to sit for the NCLEX-RN exam; and
 - b. completion of any other Company nursing program fulfills any requirement to sit any other nursing licensing exam.
5. For the period between January 1, 2011 and December 31, 2013, produce copies of or access to:
 - a. the top three best-selling CLMs and equivalency exams; and
 - b. the top three best-selling CLMs and equivalency exams for nursing programs.
6. For each CLM identified in Document Specification B.5, produce documents (including but not limited to revision schedules) sufficient to show any updates and revisions to substantive content.
7. *CLMs:* Produce documents sufficient to show the information requested by Interrogatory Specification B.8.
8. *Advisors:* Produce documents sufficient to show the information requested by Interrogatory Specification B.9.
9. *Billing, loans, collections:* Produce documents sufficient to show the information requested by Interrogatory Specifications B.10–B.13.

C. Revenue, Volume, Refunds, Expenditures

10. *Revenue, volume, refunds*: Produce any databases, spreadsheets, statements, memoranda, reports, or any summarizing document used to prepare your response to Interrogatory Specification C.15.
11. *Best-selling revenue, volume, refunds*: Produce any databases, spreadsheets, statements, memoranda, reports, or any summarizing document used to prepare your response to Interrogatory Specification C.16.
12. *Expenditures*: Produce any databases, spreadsheets, statements, memoranda, reports, or any summarizing document used to prepare your response to Interrogatory Specification C.17.

D. Enrollment, Cancellations, and Consumer Inquiries

13. *Educational Services*: Produce any databases or spreadsheets used to prepare your response to Interrogatory Specification D.19.
14. *Recordings*: Produce all documents used to prepare your response to Interrogatory Specifications D.20 and D.21.
15. Produce (a) all recordings and all transcripts of recordings of conversations; (b) all contracts, agreements, letters, communications, and documents (including but not limited to emails, and Internet chats); and (c) all other records referring or relating to each of the following individuals:

[Redacted]

If any such recordings, transcripts, or documents will not be produced, contact Yan Fang at (415) 848-5150 to identify other individuals for whom the requested items shall be produced.

16. Produce all communications referring or relating to any issues raised by consumer complaints, including but not limited to internal emails discussing consumer complaints and responses to consumer complaints.

E. Marketing

17. *Policies, practices, procedures*: Produce all documents relating to the information requested by Interrogatory Specification E.22.
18. Produce all documents (including but not limited to any scripts, policies, manuals, instructions, memoranda, checklists, and training materials) that the Company has provided to staff or any other individual for purposes of presenting to or communicating with consumers about any aspect of any Educational Service, including but not limited to benefits provided, costs and fees, cancellation and refunds, CLM content, Company partnerships, accreditation, state approval, course credit, billing, loans, collections, and average length of time for completing degree programs.
19. Produce all documents (including but not limited to manuals, memoranda, and training materials) that were prepared for or used in connection with the training of Company staff or any other individual on advertising or marketing to (a) United States military, service members, veterans, or military family members; and (b) minority men or women.

F. Advertising

20. Produce copies of all disseminated advertisements referring or relating to any Educational Service, including but not limited to advertisements made via print, radio, television, flyers, posters, brochures, direct mailings, emails, text messages, websites, blogs, Internet pop-up and banner ads, review sites, sponsored links, search and keyword ads, YouTube, Twitter, Facebook, LinkedIn, Pinterest, and any other social network.

This specification includes all websites and webpages (whether or not operated by the Company) that has advertised any Educational Service. Your production should include copies of all versions of such websites and webpages (including all webpages identified in Interrogatory Specification F.29), including but not limited to:

- a. screenshots of such websites and webpages;
- b. all past or archived versions of such websites and webpages; and
- c. all source code, programs, log files, and scripts related to such websites and webpages.

Your production should conform to Definition B and include advertisements disseminated by the Company and by any affiliated marketer.

21. Produce all documents (including but not limited to communications between the Company and any advertising agency, client briefs, research analyses, point of views, story boards, call reports, meeting reports, or other contact reports) referring or relating to:
 - a. any aspect of the creation, development, approval, execution, or evaluation of any item responsive to Document Specification F.20, including all webpages identified in Interrogatory Specification F.29;
 - b. any changes identified in your response to Interrogatory Specifications H.42; and

Civil Investigative Demand issued to The College Network, Inc.

- c. the reasons, explanations, considerations, or analysis of the success or lack of success of any advertising and marketing efforts for any Educational Service.
22. For each advertisement responsive to Document Specification F.20, provide a dissemination schedule, including the dates and times of dissemination, number of disseminations, the media used, the total cost of preparing and disseminating the advertisement, and materials sufficient to permit determination of how many ads were disseminated, when, where, and to whom. For each responsive website, webpage, and Internet advertisement, your production should include spreadsheets, databases, reports, and other summarizing documents sufficient to show any visitor volume and click-through rates.
23. Produce all documents (including but not limited to tests, reports, studies, summaries, communications, internal non-privileged staff member notes, memoranda, emails and written opinions) relied upon by you as substantiation or support for:
 - a. each claim listed in Interrogatory Specification F.27; and
 - b. each statement listed in Interrogatory Specification F.28.
24. Produce all documents that tend to call into question or disprove:
 - a. each claim listed in Interrogatory Specification F.27;
 - b. each statement listed in Interrogatory Specification F.28; and
 - c. the documents requested by Document Specification F.23.
25. *Average length of time:* Produce documents sufficient to show the information requested by Interrogatory Specification F.30.
26. *States:* Produce all documents used to prepare your response to Interrogatory Specification F.31.
27. *Data:* Produce any databases, spreadsheets, statements, memoranda, reports, or any summarizing document used to prepare your response to Interrogatory Specification F.32.
28. Produce all documents (including but not limited to market research, studies, reports, analyses, surveys, penetration tests, recall tests, audience-reaction tests, and communication tests) referring or relating to consumers' interpretations, attitude, knowledge, perception, comprehension, recall, or any other consumer attribute with respect to items responsive to Document Specification F.20.
29. Produce all documents (including but not limited to consumer research, media research analysis, client briefs, and relevant portions of complete media plans) referring or relating to the target audience, or group or class of readers or viewers, that any item responsive to Document Specification F.20 was intended to reach or actually reached.
30. Produce all documents (including but not limited to communications and agreements between you and any person providing a testimonial or endorsement) (a) referring or relating to consumer testimonials or expert endorsements for the Company, and (b) evidencing compensation provided to such person or persons. Your production

should include scripts and any other documents provided to any endorser prior to use of his or her endorsement. It should also address endorsements made by each individual identified in Interrogatory Specification F.34.

31. *Updates*: Produce all documents relating to the information requested by Interrogatory Specifications F.35 and F.36.

G. Information Handling and Security

32. Provide documents sufficient to describe all efforts by you to maintain or verify that you are maintaining the physical, administrative, or technical security measures that are responsive to Interrogatory Specification G.37.d, including but not limited to:
- a. any written procedure(s) or schedule(s) that you or your employees follow;
 - b. any written record of relevant training that you provide to employees;
 - c. a copy of each materially different contract between you and any third party who is permitted by you to access Personal Information responsive to Interrogatory Specification 37.a; and
 - d. a copy of any assessment, audit, review, or test responsive to Interrogatory Specification 37.d.ii.
33. Provide a copy of each different ad or other statement (*e.g.*, privacy policy, terms of service) you have disseminated or caused to be disseminated relating to the privacy or security of Personal Information that is responsive to Interrogatory Specification 37.d.

H. Litigation, Law Enforcement, and Third-Party Inquiries

34. Produce all pleadings, dispositive motions (including responses), settlements, decisions, and orders in any investigations, proceedings, and actions relating to the information requested by Interrogatory Specification H.39.
35. Produce all complaints, inquiries, and communications relating to the information requested by Interrogatory Specification H.40.
36. *Service changes*: Produce all documents relating to the information requested by Interrogatory Specifications H.41.

CERTIFICATION OF RECORDS OF REGULARLY CONDUCTED ACTIVITY

Pursuant to 28 U.S.C. § 1746

1. I, _____, have personal knowledge of the facts set forth below and am competent to testify as follows:
2. I have authority to certify the authenticity of the records produced by The College Network, Inc., and attached hereto.
3. The documents produced and attached hereto by The College Network, Inc. are originals or true copies of records of regularly conducted activity that:
 - a) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
 - b) Were kept in the course of the regularly conducted activity of The College Network, Inc.; and
 - c) Were made by the regularly conducted activity as a regular practice of The College Network, Inc.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2014.

SIGNATURE

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**EXHIBIT B TO
TCN PETITION TO
QUASH OR LIMIT**

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United States of America
FEDERAL TRADE COMMISSION
WESTERN REGION

February 7, 2014

VIA E-MAIL

Thomas A. Brodnik
Doninger Tuohy & Bailey LLP
50 S. Meridian Street, Suite 700
Indianapolis, IN 46204
tbrodnik@dtblegal.com

Jeanne M. Cors
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202
cors@taftlaw.com

Re: Civil Investigative Demand issued to The College Network, Inc.
FTC File No. 1323236

Dear Mr. Brodnik and Ms. Cors:

With respect to the Civil Investigative Demand ("CID") issued by the Commission to The College Network, Inc. on January 16, 2014, I have authorized the following:

Original Deadline: The deadline for The College Network Inc. to comply with Interrogatory Specifications 1, 2, 4, 6, 15, and 17, and Document Specifications 3, 5, 7, 8, and 9 remains February 20, 2014.

Extension of Deadline: The deadline for The College Network Inc. to comply with Interrogatory Specifications 5, 7, 8, 9, 10, 11, 12, 13, 14, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43, and Document Specifications 2, 4, 6, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 is extended to March 20, 2014.

Interrogatory Specification 3: By February 20, 2014, The College Network Inc. will identify the names, job titles, departments or divisions, and contact information of individuals likely to have knowledge about the subjects specified by Interrogatory Specification 3. By March 20, 2014, The College Network Inc. will provide all remaining information requested by Interrogatory Specification 3.

Interrogatory Specification 16: By February 20, 2014, The College Network Inc. will identify and rank its best-selling products and services, as requested by Interrogatory

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Specification 16.a-g. By March 20, 2014, The College Network Inc. will provide all remaining information requested by Interrogatory Specification 16.

Interrogatory Specification 19: By February 20, 2014, The College Network Inc. will provide the information requested by Specification 19 on an aggregated basis per year, including information on the number of refunds, cancellations, and attempted cancellations, the number of consumers in each state, and the best-selling products and services in each state. By March 20, 2014, The College Network Inc. will provide all remaining information requested by Interrogatory Specification 19.

Document Specification 1: By February 20, 2014, The College Network Inc. will produce an organizational chart, as requested by Document Specification 1. By March 20, 2014, The College Network Inc. will produce all remaining documents requested by Document Specification 1.

Document Specifications 17, 18, and 19: By February 20, 2014, The College Network Inc. will produce from its headquarters all documents requested by Document Specifications 17, 18, and 19. By March 20, 2014, The College Network Inc. will produce all remaining documents requested by Document Specifications 17, 18, and 19.

Document Specification 20: By February 20, 2014, The College Network Inc. will produce all advertisements for its best-selling products and services. By March 20, 2014, The College Network Inc. will produce all remaining documents requested by Document Specification 20.

Petitions to Limit or Quash: The deadline for The College Network Inc. to file any petition to limit or quash Interrogatory Specifications 5, 7, 8, 9, 10, 11, 12, 13, 14, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43; Document Specifications 2, 4, 6, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36; portions of Interrogatory Specifications 3, 16, and 19 due by March 20, 2014; and portions of Document Specifications 1, 17, 18, 19, and 20 due by March 20, 2014; is extended to March 20, 2014.

Please do not hesitate to call Yan Fang at (415) 848-5150 or John Jacobs at (310) 824-4360 if you have any questions.

Sincerely,

/s/

Thomas N. Dahdouh
Regional Director
Western Region

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**EXHIBIT C TO
TCN PETITION TO
QUASH OR LIMIT**

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DONINGER TUOHY & BAILEY LLP

JOHN W. VAN BUSKIRK
PATRICIA BEASOR BAILEY
BRIAN J. TUOHY
MARK A. BAILEY
LEWIS E. WILLIS, JR.
THOMAS A. BRODNIK*
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* ALSO ADMITTED IN CALIFORNIA
** ALSO ADMITTED IN NORTH CAROLINA

dtblegal.com

March 6, 2014

VIA E-MAIL ONLY

Yan Fang, Esq.
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, California 94103

Re: Proposal of The College Network, Inc. ("TCN") For Completion of
TCN's Response to the Civil Investigative Demand to TCN dated January
16, 2014 (the "CID") of the Federal Trade Commission (the "FTC")

Dear Ms. Fang:

Section I

Preliminary, Generally Applicable Statement

During our three meet and confer telephonic conferences, objections of TCN to the scope and content of the CID and the concept of a "rolling" response to the CID have been discussed in detail.

This letter constitutes TCN's proposal to complete its response to the CID. As you know, March 20, 2014, is the current due date for TCN to file petitions to limit or quash with respect to the remaining CID interrogatories and remaining CID document

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TCN Proposal Regarding CID
March 6, 2014
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specifications. Accordingly, Mr. Dahdouh's acceptance of this proposal (or other mutually acceptable agreement signed by Mr. Dahdouh) is reasonably required to be received by counsel for TCN by no later than a week from today, *i.e.*, Thursday, March 13, 2014.

Section II

TCN's Proposal Regarding the CID's Interrogatories

A. Interrogatory "Punch List".

It is understood that the FTC may have issues with both the CID's Interrogatories which have been answered and the CID's Interrogatories which will be answered. It is proposed that any such issues be resolved as follows: after April 1, 2014, and consistently with the concept of "rolling" responses, the FTC may raise issues with TCN's Answers to the CID's Interrogatories by letter to counsel for TCN which separately identifies and describes each such issue with respect to each applicable CID Interrogatory (all such issues, collectively, the "Interrogatory Punch List"). If no agreement is reached with respect to the Interrogatory Punch List, TCN may file a petition to limit the CID with respect to any of the matters raised by or included within the Interrogatory Punch List within thirty (30) days after TCN's counsel's receipt of the Interrogatory Punch List.

B. Record Custodians.

As stated by Ms. Cors' e-mail to you sent last night, next week the FTC will be provided with TCN's listing of "custodians" likely to have relevant information. We will discuss the duties of the custodians and their respective departments after that list is provided.

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C. Proposed Schedule Regarding the CID's Interrogatories.

Subject to limitations discussed during our meet and confer conferences, TCN's proposed schedule with respect to the CID's Interrogatories is as follows:

1. CID Interrogatory No. A.1: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. A.1;
2. CID Interrogatory No. A.2: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. A.2;
3. CID Interrogatory No. A.3: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. A.3;
4. CID Interrogatory No. B.4: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. B.4;
5. CID Interrogatory No. B.5: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.5 by March 20, 2014;
6. CID Interrogatory No. B.6: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. B.6;
7. CID Interrogatory No. B.7: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.7 by March 20, 2014;
8. CID Interrogatory No. B.8: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.8 by March 20, 2014;
9. CID Interrogatory No. B.9: Subject to the procedure described in Section II.A of this letter, TCN will answer to CID Interrogatory No. B.9 by March 20, 2014;

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10. CID Interrogatory No. B.10: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.10 by March 20, 2014;
11. CID Interrogatory No. B.11: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.11 by March 20, 2014;
12. CID Interrogatory No. B.12: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.12. by March 20, 2014;
13. CID Interrogatory No. B.13: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.13 by March 20, 2014;
14. CID Interrogatory No. B.14: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. B.14 by March 20, 2014;
15. CID Interrogatory No. C.15: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. C.15 by March 20, 2014;
16. CID Interrogatory No. C.16: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. C.16;
17. CID Interrogatory No. C.17: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. C.17;
18. CID Interrogatory No. C.18: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. C.18 by March 20, 2014;

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19. CID Interrogatory No. D.19: Subject to the procedure described in Section II.A of this letter, TCN has answered CID Interrogatory No. D.19;
20. CID Interrogatory No. D.20: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. D.20 by March 20, 2014;
21. CID Interrogatory No. D.21: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. D.21 by March 20, 2014;
22. CID Interrogatory No. E.22: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. E.22 by March 20, 2014;
23. CID Interrogatory No. E.23: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. E.23 by March 20, 2014;
24. CID Interrogatory No. F.24: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.24 by March 20, 2014;
25. CID Interrogatory No. F.25: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.25 by March 20, 2014;
26. CID Interrogatory No. F.26: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.26 by March 20, 2014;
27. CID Interrogatory No. F.27: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.27 by March 20, 2014;

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28. CID Interrogatory No. F.28: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.28 by March 20, 2014;
29. CID Interrogatory No. F.29: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.29 by March 20, 2014;
30. CID Interrogatory No. F.30: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.30 by March 20, 2014;
31. CID Interrogatory No. F.31: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.31 by March 20, 2014 ;
32. CID Interrogatory No. F.32: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.32 by March 20, 2014;
33. CID Interrogatory No. F.33: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.33 by March 20, 2014;
34. CID Interrogatory No. F.34: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.34 by March 20, 2014;
35. CID Interrogatory No. F.35: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.35 by March 20, 2014;
36. CID Interrogatory No. F.36: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. F.36 by March 20, 2014;

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37. CID Interrogatory No. G.37: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.37 by March 20, 2014;
38. CID Interrogatory No. G.38: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.38 by March 20, 2014;
39. CID Interrogatory No. G.39: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.39 by March 20, 2014
40. CID Interrogatory No. G.40: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.40 by March 20, 2014;
41. CID Interrogatory No. G.41: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.41 by March 20, 2014;
42. CID Interrogatory No. G.42: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.42 by March 20, 2014; and
43. CID Interrogatory No. G.43: Subject to the procedure described in Section II.A of this letter, TCN will answer CID Interrogatory No. G.43 by March 20, 2014.

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Section III

TCN's Proposal Regarding the CID's Document Specifications

A. The Word "Databases"

The word "databases" appears in CID Document Specifications Nos. 10, 11, 12, 13, 22, and 27. As discussed in detail during our first meet and confer conference, the CID's demand for production of databases would capture the universe of TCN's business during the responsive period and that demand is overbroad, unduly burdensome, and oppressive.

That stated, TCN is optimistic that TCN's other responses to the CID will satisfy the FTC, and proposes that the dispute between the FTC and TCN regarding "databases" be deferred at this time.

TCN's proposal regarding the CID's use of the word "databases" is as follows:

- (i) TCN's production according to the schedule proposed by Section III.D. of this letter will exclude from all otherwise applicable CID Document Specifications the word "databases";
- (ii) No sooner than 30 days after TCN completes its production according to the schedule proposed by Section III.D. of this letter, the FTC may renew its demand for the production of "databases" as originally set forth by the CID; and
- (iii) If no agreement is reached with respect to the FTC's renewed demand, TCN may then file a motion to limit the CID with respect to that renewed demand within thirty (30) days after receipt by counsel for TCN of that renewed demand.

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B. Production "Punch List".

In addition to the proposal contained within Section III.A. of this letter, it is understood that the FTC may have issues with both the CID's Document Specifications to which responses have been made and the CID's Document Specifications to which responses will be made. It is proposed that any such issues be resolved as follows: after TCN completes its responses according to the schedule contained within Section III.D. of this letter, and consistently with the concept of "rolling" responses, the FTC may raise issues with any of TCN's responses to the CID Document Specifications by letter to counsel for TCN which separately identifies and describes each such issue with respect to each applicable CID Document Specification (all such issues, collectively, the "Production Punch List"). If no agreement is reached with respect to the Production Punch List, TCN may file a petition to limit the CID with respect to any of the matters raised by or included within the Production Punch List within thirty (30) days after TCN's counsel's receipt of the Production Punch List.

C. Carveout of E-Mail.

As stated by Ms. Cors' e-mail last evening, once the FTC and TCN reach agreement regarding the "custodians" and search terms/areas of inquiry, TCN will proceed promptly to retrieve and search relevant e-mail. Accordingly, and for the avoidance of confusion, the proposed schedule contained within Section III.D. of this letter excludes e-mail.

D. Proposed Schedule Regarding the CID's Document Specifications.

Subject to limitations discussed during our meet and confer conferences, TCN's proposed schedule with respect to the CID's Document Specifications is as follows:

1. CID Document Specification No. A.1: Subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. A.1;

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2. CID Document Specification No. B.2: Subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.2;
3. CID Document Specification No. B.3: TCN will promptly supplement its response to CID Document Specification No. B.3 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.3;
4. CID Document Specification No. B.4: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
5. CID Document Specification No. B.5: Subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.5;
6. CID Document Specification No. B.6: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
7. CID Document Specification No. B.7: TCN will promptly supplement its response to CID Document Specification No. B.7 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.7;
8. CID Document Specification No. B.8: TCN will promptly supplement its response to CID Document Specification No. B.8 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.8;

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9. CID Document Specification No. B.9: TCN will promptly supplement its response to CID Document Specification No. B.9 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. B.9;
10. CID Document Specification No. C.10: Subject to the procedure described in Section III.A. of this letter, TCN has completed its response to CID Document Specification No. C.10;
11. CID Document Specification No. C.11: Subject to the procedures described in Sections III.A. and III.B. of this letter, TCN has completed its response to CID Document Specification No. C.11 except that TCN will produce a "static" report regarding refunds by March 20, 2014;
12. CID Document Specification No. C.12: Subject to the procedure described in Sections III.A. and III.B. of this letter, TCN has completed its response to CID Document Specification No. C.12;
13. CID Document Specification No. D.13: Subject to the procedure described in Sections III.A. and III.B. of this letter, TCN has completed its response to CID Document Specification No. D.13;
14. CID Document Specification No. D.14: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;

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15. CID Document Specification No. D.15: TCN does have responsive recordings with respect to some of the individuals listed in this Specification. These recordings contain Sensitive Personally Identifiable Information ("SPII") as SPII is defined by the CID. Pursuant to the CID, it is requested that encryption software be discussed for use in all responsive recordings. TCN will produce the responsive recordings, as encrypted, by March 20, 2014 (assuming that the manner of encryption is agreed in sufficient time to reasonably allow production by that date); and

By April 20, 2014, subject to the procedure described in Section III.B. of this letter, TCN will complete its response to Document Specification No. D.15.;

16. CID Document Specification No. D.16: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by April 20, 2014;
17. CID Document Specification No. E.17: TCN has produced documents response to this Specification by TCN's Response to Document Specification No. B.8. TCN will promptly supplement its prior production made in response to CID Document Specification No. B.8 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. E.17;
18. CID Document Specification No. E.18: TCN has produced documents response to this Specification by TCN's Response to Document Specification Nos. B.20 and B.8. TCN will promptly supplement its prior production made in response to CID Document Specification No. B.8 if additional responsive documents are located and identified by TCN; otherwise, subject to the procedure described in Section III.B. of this letter, TCN has completed its response to CID Document Specification No. E.18;

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19. CID Document Specification No. E.19: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
20. CID Document Specification No. F.20: Subject to the procedure described in Section III.B. of this letter, and further meet and confer communications, TCN has completed its response to CID Document Specification No. F.20;
21. CID Document Specification No. F.21: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by April 20, 2014;
22. CID Document Specification No. F.22: Subject to the procedure described in Sections III.A. and III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
23. CID Document Specification No. F.23: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
24. CID Document Specification No. F.24: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
25. CID Document Specification No. F.25: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
26. CID Document Specification No. F.26: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;

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Federal Trade Commission
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27. CID Document Specification No. F.27: Subject to the procedure described in Sections III.A. and III.B. of this letter, TCN has completed its response to CID Document Specification No. F.27;
28. CID Document Specification No. F.28: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
29. CID Document Specification No. F.29: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
30. CID Document Specification No. F.30: Subject to the procedure described in Section III.B. of this letter, TCN will respond in part to this Specification by March 20, 2014, and will complete its response to this Specification by April 20, 2014;
31. CID Document Specification No. F.31: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
32. CID Document Specification No. G.32: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
33. CID Document Specification No. G.33: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014;
34. CID Document Specification No. H.34: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by April 20, 2014 (any SPII will be redacted);

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35. CID Document Specification No. H.35: Subject to the procedure described in Section III.B. of this letter, TCN's production in response to CID Document Specifications D.15, D.16 and H.34 will complete TCN's response to this Specification; and
36. CID Document Specification No. H.36: Subject to the procedure described in Section III.B. of this letter, TCN will respond to this Specification by March 20, 2014.

Section IV

Conclusion

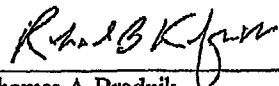
We look forward to discussing this proposal with you at our next telephonic meet and confer conference. It is requested that conference occur after Mr. Jacobs and you have had the opportunity to review this letter; accordingly, it is proposed that the next telephonic meet and confer conference occur at a mutually agreeable time on Monday or Tuesday of next week.

All rights, remedies, objections, and defenses of TCN are reserved and preserved, and none are waived.

Very truly yours,

DONINGER TUOHY & BAILEY LLP

By:



Thomas A. Brodnik
Richard B. Kaufman

RBK/bn

cc: John D. Jacobs, Esq. (via e-mail only)
Jeanne M. Cors, Esq. (via e-mail only)

G19/F19430ark

PUBLIC

**EXHIBIT D TO
TCN PETITION TO
QUASH OR LIMIT**

PUBLIC



United States of America
FEDERAL TRADE COMMISSION
WESTERN REGION

March 13, 2014

VIA E-MAIL

Thomas A. Brodnik
tbrodnik@dtblegal.com

Richard B. Kaufman
rkaufman@dtblegal.com

Doninger Tuohy & Bailey LLP
50 S. Meridian Street, Suite 700
Indianapolis, IN 46204

Re: Civil Investigative Demand issued to The College Network, Inc.
FTC File No. 1323236

Dear Mr. Brodnik and Mr. Kaufman:

On March 6, 2014, you submitted a letter behalf of The College Network, Inc. ("TCN") requesting extensions to and modifications of the Civil Investigative Demand ("CID") issued by the Commission to TCN on January 16, 2014. Following our March 11, 2014 phone conference ("Call #4") with you and Ms. Jeanne Cors, this letter formally responds to your proposal.

TCN's Proposal Regarding Petitions to Limit or Quash

TCN's proposal appears to contemplate at least three separate windows of time for filing petitions to limit or quash: (1) within thirty days of TCN's receipt of an "Interrogatory Punch List" from the FTC; (2) within thirty days of TCN's receipt of a "Production Punch List" from the FTC; and (3) within thirty days of a renewed request by the FTC for "databases" requested in the CID.

As we explained on Call #4, we cannot recommend to our management that it authorize an extension of the March 20, 2014 deadline to file one or more petitions to limit or quash the remaining CID interrogatory and document specifications. The original deadline for TCN to file a petition to limit or quash was February 10, 2014. TCN requested a 30-day extension of this deadline during a phone conference on February 6, 2014 ("Call #2") with you and Ms. Cors. In his letter dated February 7, 2014, Mr. Dahdouh extended to March 20, 2014 the deadline for TCN to file a petition to limit or quash the specifications and specification portions enumerated in the "Petitions to Limit or Quash" section of the letter. With this extension, the FTC granted an additional 38 days for TCN to file a petition to limit the specifications and specification portions enumerated in Mr. Dahdouh's letter. We believe that this additional time is more than sufficient for a party to assert its objections to the remaining specifications.

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TCN's Proposal Regarding Databases

In its March 6th letter, TCN proposes removing the word "databases" from Document Specifications 10, 11, 12, 13, 22, and 27 until thirty days after TCN completes production, at which point the FTC may renew its request for the production of "databases" as written in the CID. TCN further proposes that within thirty days of receiving the FTC's renewed request, TCN be permitted to file a petition to limit the CID with respect to that renewed request.

Given that we cannot recommend an extension of the March 20, 2014 deadline to file a petition to limit or quash the remaining CID specifications, we cannot recommend TCN's proposal regarding databases.

More generally, we cannot recommend this proposal because TCN has made only a general objection to the production of databases. Before we can consider whether a specification or deadline should be adjusted to address TCN's objections, TCN must first demonstrate its claims of undue burden with specific facts or information supporting the alleged burden or privilege. We note that all of the specifications at issue (except for Document Specification 22) ask for databases or other documents "used to prepare" TCN's response to corresponding interrogatories and thus are limited by their own terms. In addition, a database is one of several types of responsive documents that TCN may provide. For example, Document Specifications 10, 11, 12, and 27 allow for TCN to respond by providing "spreadsheets, statements, memoranda, reports, or any summarizing document." Of course, if TCN relies on a database in answering the corresponding interrogatory, that database would need to be produced.

We also note that Document Specification 13 corresponds to Interrogatory Specification 19, which asks for information about TCN consumers. Since Interrogatory Specification 19 allows for TCN to respond to the interrogatory by providing an electronic database, providing a database of the information requested in Interrogatory Specification 19 could also respond to Document Specification 13.

TCN's Proposal Regarding E-Mail

Again, we cannot recommend TCN's proposal for a general "carveout" of e-mail because TCN has not demonstrated its claims of undue burden with specific facts or information supporting the alleged burden.

TCN has also proposed to use a combination of custodian limits and search terms in order to retrieve and search e-mail. We are generally amenable to custodian limits and search terms, but before we can agree to any limits, TCN would first need to provide us sufficient information to identify those custodians likely to possess responsive documents. TCN would also need to provide us with proposed search terms that are likely to result in responsive information, based on sampling and testing of potential search terms. Without any agreement, TCN is obligated to produce all e-mail responsive to the CID.

TCN's Proposed Extensions

In its March 6th letter, TCN proposes April 20, 2014 as the deadline for TCN to respond to Document Specifications 15, 16, 21, 30, and 34. As we explained during Call #4, we are generally amenable to recommending these particular extensions, subject to caveats that we did not have enough time to discuss during that call. We welcome the opportunity to resume discussing this request.

TCN's Assertions of Completion

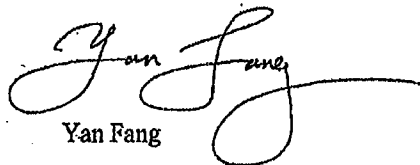
In its March 6th letter, TCN asserts that it has answered or completed its response to certain interrogatory and document specifications through its initial production on February 20, 2014 and its supplemental production on February 26, 2014. Because we are still reviewing the answers and documents submitted by TCN, we cannot assess the completeness of TCN's responses to date. Based on a preliminary look at TCN's answers and documents, however, we raised concerns about the completeness of TCN responses during a February 27, 2014 phone conference ("Call #3") with you and Ms. Cors. During that call, we also raised concerns about Ms. Cors's first letter dated February 19, 2014—specifically, whether that letter's descriptions of the CID responses that TCN intended to provide by February 20, 2014 are narrower than the descriptions provided to us during Call #2. We continue to reserve the right to seek full compliance with the CID as written.

Status of Discussions

At the end of Call #4, you stated that TCN plans to file a petition to limit or quash the remaining CID specifications. During a subsequent phone conference on March 12, 2014 ("Call #5") with Ms. Cors, Ms. Cors offered to e-mail us a new partial proposal. We await her proposal and will respond after we have the opportunity to consider it.

If you have any questions or concerns, please do not hesitate to call me at (415) 848-5150 or Mr. Jacobs at (310) 824-4360.

Sincerely,



Yan Fang

cc: Jeanne M. Cors
cors@taftlaw.com.

John D. Jacobs
jjacobs@ftc.gov

**GROUP EXHIBIT
E
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC

From: Fang, Yan [mailto:yfang@ftc.gov]
Sent: Tuesday, March 18, 2014 9:27 PM
To: Cors, Jeanne M.
Subject: Re: The College Network

Jeanne, We didn't get to catch the director before he left today, but expect to send you his signed letter tomorrow morning. Thanks again for your time and calls this afternoon.

From: Cors, Jeanne M. [mailto:cors@taftlaw.com]
Sent: Tuesday, March 18, 2014 01:49 PM
To: Fang, Yan
Subject: RE: The College Network

Perfect.

From: Fang, Yan [mailto:yfang@ftc.gov]
Sent: Tuesday, March 18, 2014 1:49 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

That's a good plan. In case John can join, let's use this dial-in then:

[Redacted]

From: Cors, Jeanne M. [mailto:cors@taftlaw.com]
Sent: Tuesday, March 18, 2014 10:39 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Yan, it will be just me from our side. Why don't we convene at 3 and reconvene at 515 if necessary? Unfortunately my 4 pm cannot be moved.

Thanks!

From: Fang, Yan [mailto:yfang@ftc.gov]
Sent: Tuesday, March 18, 2014 1:29 PM
To: Cors, Jeanne M.

3/19/2014

PUBLIC

Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

How about 3 pm or 5:15 pm Eastern time (12 noon or 2:15 Pacific)? John may not be available, but I am free either those times. Thanks.

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Tuesday, March 18, 2014 9:47 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: Re: The College Network

I am available until 4 or after 5. Please suggest a time that works best for you and John.

Many thanks.

Sent via HTC One S Powered by Cincinnati Bell Wireless

----- Reply message -----

From: "Fang, Yan" <yfang@ftc.gov>
To: "Cors, Jeanne M." <cors@taftlaw.com>
Cc: "TBRODNIK@dtblegal.com" <TBRODNIK@dtblegal.com>, "RICHARD KAUFMAN (RKAUFMAN@dtblegal.com)" <RKAUFMAN@dtblegal.com>, "Jacobs, John D." <JJACOBS@ftc.gov>
Subject: The College Network
Date: Tue, Mar 18, 2014 12:43 PM

Thanks for your email, Jeanne. I am in a meeting until at least 1:30 pm Eastern time. John is also checking his schedule. Are there other times today you're available today?

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Tuesday, March 18, 2014 7:39 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Many thanks Yan. We appreciate your willingness to work through these outstanding issues.

Would you have time around 1230 EST or shortly thereafter to discuss your letter and various questions you raised?

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 10:04 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Dear Jeanne,

Thank you for answering our questions throughout the day. The attached letter responds to your proposal.

3/19/2014

PUBLIC

Since April 20th is a Sunday, we suggest April 21, 2014 as one of the deadlines instead. If you have any questions or if we have misunderstood any aspects of your proposal, please let us know.

Best regards,

Yan

Yan Fang
Attorney, Western Region
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
Phone: (415) 848-5150
Fax: (415) 848-5184

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Monday, March 17, 2014 1:31 PM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

We have confirmed your statement is correct.

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 3:08 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Thanks, Jeanne. If we understand correctly, the "static" refund figure TCN would produce for 2011 may include refunds that TCN actually made in 2011, 2012, 2013, or 2014.

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Monday, March 17, 2014 11:45 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

No.

Amounts are applied to the year in which the Program was purchased, irrespective of when the refund is made. So a refund today may be applied back to 2011 if the Program was purchased in 2011.

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 2:43 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

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Putting aside the availability of "rate" and CLM- or exam-specific information, we're still not sure how a "static" report is different from the original CID request. For example, the CID asks for the total amount refunded in 2011. As we understand, the total amount refunded by TCN in 2011 is a "static" figure. So even if a consumer requests a refund in 2014 for something that he bought in 2011, wouldn't the total amount refunded by TCN in 2011 remain the same?

Thanks in advance for your clarification.

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Monday, March 17, 2014 11:35 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Many thanks.

Because refunded amounts fluctuate we can only provide a snapshot in time and only by Program (not CLM or exam). Nor can we provide the rate.

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 2:26 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Jeanne,

We are working diligently to respond within the next few hours and have another question.

Re: TCN's supplemental responses to Interrogatories 15 and 16: Could you clarify how your proposal is different from what the CID requests? Previously, you explained that TCN can provide only "static" reports or "snapshot" information about refunds because refund information continuously changes: the amount and volume of refunds change whenever TCN issues a refund. We're trying to understand out how a "static" report is different than what the CID requests.

Many thanks,

Yan

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Monday, March 17, 2014 10:11 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Yes. Many thanks.

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 12:59 PM

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To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Thanks, Jeanne. Is this the definition of Company that you propose for purposes of the April 20th deadline?

"Company" shall mean **The College Network, Inc.** and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, and operations under assumed names, including **College Network Inc.** and **The College Network Inc.**, and all directors, officers, and employees.

This is the original CID Definition:

"Company" shall mean **The College Network, Inc.** and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, including **College Network Inc.** and **The College Network Inc.**, and all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

From: Cors, Jeanne M. [<mailto:cors@taftlaw.com>]
Sent: Monday, March 17, 2014 9:35 AM
To: Fang, Yan
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Thanks Yan.

No. Our proposal is to remove from the definition the terms and phrase "agents, consultants, and other persons working for or on behalf of the foregoing" and limit the definition of "affiliate" to only those entities wholly or partially owned by TCN (which appears to be already contemplated by the definition of "Company" itself).

As mentioned TCN has hundreds of independent consultants and lead vendors around the country. Including them within the definition of "Company" makes compliance impossible. With respect to the term "affiliate," as undefined the term is vague and unworkable from both a response and certification standpoint.

From: Fang, Yan [<mailto:yfang@ftc.gov>]
Sent: Monday, March 17, 2014 12:12 PM
To: Cors, Jeanne M.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com); Jacobs, John D.
Subject: RE: The College Network

Jeanne,

What is the full definition of "Company" that you propose to use for purposes of the April 20th deadline? Are you proposing to remove "subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates" and "all directors, officers, employees, agents, consultants, and other persons working for or on behalf of the foregoing" from the CID Definition of "Company"?

Thanks in advance for your clarification.

3/19/2014

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Best,
Yan

From: Cors, Jeanne M. [mailto:cors@taftlaw.com]
Sent: Friday, March 14, 2014 9:28 AM
To: Fang, Yan; Jacobs, John D.
Cc: TBRODNIK@dtblegal.com; RICHARD KAUFMAN (RKAUFMAN@dtblegal.com)
Subject: The College Network

Yan and John,

Many thanks for taking the time Wednesday to discuss TCN's response to the CID and our proposal to resolve outstanding issues with respect to certain specifications with an eye toward narrowing the specifications that will be the subject of our Petition to Quash (currently due on March 20).

There are a number of outstanding interrogatory and document specifications to which TCN is willing to respond to by April 20, 2014 subject to TCN's pending objections regarding the definitions of "Identify" and "Company" which objections will be subject of TCN's Petition to Quash. For purposes of these proposed responses TCN will define "Company" to include only those entities wholly or partially owned by TCN. TCN will define "Identify" to include (i) with respect to current and former employees name and job title; (ii) with respect to third party natural persons with whom TCN has a direct relationship name and business affiliation; and (iii) with respect to third party entities name. TCN will agree to supply addresses for any specific third person businesses or entities as may be reasonably requested by FTC.

Interrogatory Specifications

Please advise whether FTC will agree to grant TCN an extension through April 20, 2014 to respond to the following interrogatory specifications: Interrogatory Specification Nos. 5, 6-14, 18, 20-36, 38-39 and 41-42. Subject to the definitional objections noted above, TCN does not seek any agreement with respect to these specifications regarding scope.

With respect to Interrogatory No. 3, TCN previously identified persons in management with knowledge regarding the areas set forth in (a) – (d). Taken literally this request would require TCN to identify virtually all company personnel. If FTC agrees to limit any further response to the identification of those additional personnel with primary responsibility (if any) for the enumerated topics, TCN will agree to supplement its response to Interrogatory No. 3 by April 20, 2014.

With respect to Interrogatory No. 15, TCN previously provided the data requested in (a) – c(iii) by Program. TCN does not track refunds, etc. as a line item in its financials by Program. Nor does it calculate rates. TCN will agree to provide FTC a static report by year and Program of total amounts refunded to customers within the 5-day cancellation period and outside the 5-day cancellation period. If FTC agrees to limit TCN's supplemental response to Interrogatory 15 to this information, TCN will agree to supplement its response to Interrogatory No. 15 by April 20, 2014.

With respect to Interrogatory No. 16, TCN previously responded to (a) – (g) listed at the top of the request. TCN also previously provided the information requested in (a) – (c) of the lower paragraph by Program in Exhibits B and C of its February interrogatory responses. TCN will agree in response to (d) – (e) of the lower paragraph to provide the static report regarding refunds described above in connection with TCN's proposed supplemental response to Interrogatory No. 15. If FTC agrees to limit TCN's supplemental response to Interrogatory 16 to this information, TCN will agree to supplement its response to Interrogatory 16 by April 20, 2014.

3/19/2014

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Document Specifications

Excluding the search and retrieval of email and requests for underlying databases, which remain subjects of meet and confer and will be addressed in our Petition to Quash, and subject to the definitional objections noted above, TCN will agree to respond to the following document specifications by April 20, 2014 if FTC agrees to grant TCN an extension through April 20, 2014 and agrees to limit the scope of production to the categories of materials identified:

- Document Request 4: The information requested is not data compiled and retained by TCN. TCN will produce any reports or summary data located in TCN's files.
- Document Request 6: TCN will produce any changes checklists and track changes Word files located in its files.
- Document Request 7: TCN previously produced copies of written policies and procedures governing the creation and revision of substantive CLM content. TCN will supplement its production by producing a document listing the TCN personnel, subject matter experts, and third party reviewers involved in the referenced activities and providing copies of any applicable job descriptions and CVs located in its files.
- Document Request 8: TCN previously produced copies of written policies and procedures. TCN will produce copies of job descriptions located in its files.
- Document Request 9
- Document Request 14: TCN will produce copies of written policies or procedures.
- Document Request 15: TCN will produce the customer file for each referenced customer.
- Document Request 17: TCN previously produced written policies and procedures. TCN will supplement its production with any additional written policies and procedures (including prior versions) located in its files.
- Document Request 18: TCN previously produced copies of training materials, policies and procedures and training manuals. TCN will supplement its production with copies of any prior versions of these materials, training podcasts and copies of any handouts prepared by TCN for distribution to potential customers located in its files.
- Document Request 19
- Document Request 23
- Document Request 24
- Document Request 25
- Document Request 26
- Document Request 27
- Document Request 28
- Document Request 29
- Document Request 30: TCN will produce copies of testimonials, applicable releases and scripts (if any). TCN does not compensate individuals who provide testimonials.
- Document Request 32
- Document Request 33
- Document Request 34
- Document Request 36

With respect to any specification not referenced in this email, TCN has either completed its response to the specification or intends to make the specification a subject of its Petition. With respect to the latter category, while TCN would prefer to extend the Petition date and continue to meet and confer, in light of the March 20 deadline for filing a Petition TCN does not believe it has sufficient time in advance of the March 20 deadline to resolve all outstanding objections with respect to scope of such specifications.

In furtherance of our meet and confer regarding email, TCN will forward to you a listing of relevant custodians early next week. Once you have reviewed the list it would be helpful to discuss with you by specification the categories of correspondence you would like pulled which would greatly assist us in crafting search terms.

In light of the upcoming March 20 deadline, we ask that you respond to our proposed extensions and limitations by no later than the end of today.

Many thanks.

Jeanne

Taft/

Jeanne M. Cors / Partner
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio, 45202-3957
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www.taftlaw.com / cors@taftlaw.com

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**EXHIBIT F
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC



United States of America
FEDERAL TRADE COMMISSION
WESTERN REGION

Yan Fang, Attorney

901 Market Street, Suite 570
San Francisco, CA 94103

(415) 848-5150
yfang@ftc.gov

March 17, 2014

VIA E-MAIL

Jeanne M. Cors
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202
cors@taftlaw.com

Re: Civil Investigative Demand issued to The College Network, Inc.
FTC File No. 1323236

Dear Ms. Cors:

We have received your e-mail of March 14, 2014 proposing extensions to and modifications of the Civil Investigative Demand ("CID") that the Federal Trade Commission ("FTC") issued to The College Network, Inc. ("TCN") on January 16, 2014.

We appreciate your willingness to reach agreement on certain CID specifications while preparing to petition to limit or quash others. In response to your proposal, staff is willing to recommend:

- (1) Extending to April 21, 2014 the deadline for TCN, using the definitions of "Identify" and "Company" proposed in your e-mail of March 14th and in subsequent e-mails with staff on March 17, 2014, (a) to respond to Interrogatory Specifications 5, 7-14, 18, 20-36, 38-39, 41-42, and Document Specifications 4, 14-15, 23-29, 30, 32-34, 36; and (b) to supplement responses to Interrogatory Specifications 3, 6, 15, 16 and Document Specifications 9, 17, 18, 19;
- (2) Extending to May 5, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed below in Section III.A, (a) to respond to Interrogatory Specification 40 and Document Specifications 16, 21, 22, 31, 35; and (b) to supplement responses to Document Specification 20; and
- (3) Extending to May 19, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed below in Section III.A, (a) to respond to Interrogatory Specification 37 and Document Specifications 6,

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10, 11, 12; (b) to supplement responses to Document Specifications 2, 7, 8 and all other CID specifications; and (c) to produce all e-mails responsive to the CID.

Staff further proposes to recommend provisional modifications of several CID specifications. These extensions and provisional modifications are conditioned on TCN's continued progress in achieving compliance with the CID. For each of the requests for which the FTC agrees to extend or modify, the FTC does so without waiver of its rights, and it reserves its rights to seek full compliance with the CID as issued. We hope our proposed extensions and provisional modifications will balance any hardship to TCN with the need to advance the FTC's investigation. We discuss your specific requests and our proposals below.

I. Interrogatory Specifications

A. Interrogatory Specification 1

Counsel has raised concerns about the breadth of the term "affiliates" in the CID definition of "Company."¹ In light of counsel's concerns, staff is willing to recommend the removal of "affiliates" from this specification on a provisional basis. We reserve the right to seek full compliance with the CID as issued.

B. Interrogatory Specification 3

TCN proposes limiting "any further response to the identification of those additional personnel with primary responsibility (if any) for the enumerated topics."²

The identity of TCN officers, employees, contractors, consultants, affiliates, and agents with knowledge about the subjects listed in this specification—for example, TCN's relationships with universities, the number of TCN customers who have obtained a degree, the acceptance of TCN's educational products and services for course credit, and the substantive expertise of TCN's academic support staff—is relevant to our investigation of TCN's advertising and marketing claims, including those claims identified in Interrogatory Specifications 27 and 28.

Before we can consider narrowing this specification, we would like to understand who would fall under TCN's proposed modification. For example, would mid-level managers, contractors, consultants, and agents with substantial knowledge about any of the specified subjects fall within TCN's proposed "primary responsibility" language? Counsel has explained that TCN has more than one hundred employees in its Indianapolis and Las Vegas offices, in

¹ Regional Director Thomas Dahdouh's letter dated February 27, 2014 retains February 20, 2014 as the deadline for TCN to respond to this specification. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash this specification.

² Mr. Dahdouh's February 27th letter retains February 20, 2014 as the deadline for TCN to "identify the names, job titles, departments or divisions, and contact information of individuals likely to have knowledge about the subjects specified by Interrogatory Specification 3." His letter retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash portions of this specification due on February 20th.

addition to hundreds of independent consultants and lead vendors around the country. To date, TCN has named four individuals as having “direct responsibility for or the most knowledge (if any)” about the specified subjects. See TCN’s February 20, 2014 Answer to Interrogatories.

C. Interrogatory Specifications 15, 16

TCN proposes limiting supplemental responses to Specification 15.c(iv–v) “to a static report by year and Program of total amounts refunded to customers within the 5-day cancellation period and outside the 5-day cancellation period.”³ TCN also proposes limiting supplemental responses to the lower paragraph of Document Specification 16 “to a static report by year and Program of total amounts refunded to customers within the 5-day cancellation period and outside the 5-day cancellation period.”

Counsel has explained that TCN can provide only “static” refund figures because TCN applies refund amounts to the year in which a program was purchased, irrespective of when TCN made the refund. Thus, for example, the “static” refund figure TCN would produce for 2011 may include refunds that TCN actually made in 2011, 2012, 2013, or 2014. Counsel also states that TCN does not calculate “rates.”

In light of counsel’s explanations, staff is willing to recommend (1) the provisional removal of “rates” from these specifications, and (2) the provisional acceptance of reports containing “static” figures in response to Document Specification 15.c(iv–v) and the lower paragraph of Document Specification 16. We reserve the right to seek subsequent “static” figures and to seek full compliance with the CID as issued.

D. Interrogatory Specification 37

TCN has not raised any objection to this specification during our phone conferences. Nonetheless, in an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond this specification.

E. Interrogatory Specification 40

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond to this specification. While we understand your concern about avoiding undue burden to your client in responding to this specification, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about categories of commonly received complaints and processes for resolving complaints, but we have not yet received a response.

³ Mr. Dahdough’s February 27th letter retains February 20, 2014 as the deadline for TCN to respond to Interrogatory Specification 15. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash this specification.

II. Document Specifications

A. Document Specification 2

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond to this specification. We note that since this specification requests only the production of documents “sufficient to show” the information requested by Interrogatory Specification 4, the specification is limited by its own terms.

B. Document Specification 4

TCN states that “the information requested is not data compiled and retained by TCN” and proposes to limit this specification to “any reports or summary data.” Before we can consider limiting this specification, we would like to understand how TCN defines “reports” and “summary data” and whether TCN has any other documents showing the requested information. For example, TCN’s website features a map showing the availability of the LPN/LVN to BS in nursing program. Does TCN have brochures, handbooks, memoranda, letters, agreements, certificates, or other maps and documents showing the requested information?

C. Document Specification 6

TCN proposes limiting this specification to “any changes checklists and track changes Word files.” Before we can consider limiting this specification, we would like to understand what other responsive documents exist. For example, are there schedules showing when Comprehensive Learning Modules (“CLMs”) and equivalency exams are updated or revised? Are there agreement, letters, or other documents showing the hiring of authors to update or revise CLMs and equivalency exams? In an effort to reduce any unnecessary burden on TCN, however, staff is willing to recommend extending to May 19, 2014 the deadline for supplemental responses to this specification.

D. Document Specifications 7, 8

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for supplemental responses to these specifications.⁴ Staff proposes discussing TCN’s supplemental responses to these specifications in a phone conference.

⁴ Mr. Dahdouh’s February 27th letter retains February 20, 2014 as the deadline for TCN to respond to these specifications. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash these specifications.

E. Document Specifications 10, 11, 12

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond to these specifications.

F. Document Specification 14

TCN proposes limiting this specification to “copies of written policies or procedures.” Before we can consider limiting this specification, we would like to understand how TCN’s proposed modification would differ from the documents otherwise requested by this specification. We note that since this specification requests only the production of documents “used to prepare” TCN’s response to corresponding interrogatory specifications, Document Specification 14 is limited by its own terms.

G. Document Specification 15

TCN proposes limiting this specification to “the customer file for each referenced customer.” Consumers’ experiences with TCN’s educational products and services is relevant to our investigation, and we cannot agree to any narrowing of this specification without understanding what TCN means by “customer file.” Moreover, this specification is limited to thirty specified consumers.

We also note that this specification states, “If any such recordings, transcripts, or documents will not be produced, contact [staff] to identify other individuals for whom the requested items shall be produced.” In its letter dated March 6, 2014, TCN states that it “does have responsive recordings with respect to some of the individuals listed in this Specification,” suggesting that recordings are not available for all of the listed individuals. If TCN does not in fact have recordings and transcripts for certain individuals listed in this specification, TCN will need to identify those individuals to the FTC so that we may provide TCN with names of other consumers as to whom the requested items should be produced. We would also like to understand why any documents, including recordings and transcripts, are not available.

H. Document Specifications 16, 35

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond to these specifications. While we understand your concern about avoiding undue burden to your client in responding to these specifications, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about categories of commonly received complaints and processes for resolving complaints, but have not yet received a response.

I. Document Specifications 17, 18

TCN proposes (1) limiting Specification 17 to “written policies and procedures (including prior versions)” and (2) limiting Specification 18 to “training materials, policies,

procedures, training manuals, training podcasts, and copies of any handouts and prior versions of these materials. TCN has not explained, however, whether any other documents responsive to these specifications exist. Before we can consider limiting these specifications, we would like to understand whether any other responsive documents exist.

J. Document Specifications 20, 21, 22

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for (1) supplemental responses to Document Specification 20 and (2) responses to Document Specifications 21 and 22. While we understand your concern about avoiding undue burden to your client in responding to this specification, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about the quantity and types of advertisements at issue, but have not yet received a response.

K. Document Specification 30

TCN proposes limiting this specification to “copies of testimonials, applicable releases and scripts (if any).” Before we can consider narrowing this specification, we would like to understand what types of agreements, communications, and other documents exist with respect to all persons providing a testimonial or endorsement, including consumers, representatives from colleges and universities, and representatives from accrediting organizations, hospitals, healthcare organizations, and nursing or other trade associations.

TCN also states, “TCN does not compensate individuals who provide testimonials.” We would like to understand how TCN defines the term “compensate.” For example, does TCN offer discounts to TCN endorsers?

L. Document Specification 31

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond this specification.

III. Other Issues

A. Definition of “Company”

We understand that TCN plans to object to the CID definition of “Company” in its petition to limit or quash.⁵ In your March 14th e-mail and in subsequent e-mails with staff on March 17, 2014, you propose to narrow, for purposes of TCN’s April 21, 2014 production, the CID definition of “Company” to “The College Network, Inc. and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, and operations under assumed names,

⁵ Mr. Dahdouh’s February 27th letter did not extend the original February 10, 2014 deadline for TCN to file a petition to limit or quash any CID definitions.

including College Network Inc. and The College Network Inc., and all directors, officers, and employees.” For numerous CID specifications identified in your March 14th e-mail, you further propose to limit the production of “Company” documents to those in “TCN’s files” or “its files.”

We cannot agree to a CID-wide proposal to remove “agents, consultants, and other persons working for or on behalf of the foregoing” from the CID definition of “Company.” Nor can we agree to limit the production of “Company” documents to those “in TCN’s files” or “in its files,” as you propose to define “Company.” As we have explained during phone conferences, the identity, documents, and communications of persons working for or on behalf of TCN—including TCN salespersons and representatives throughout the country—are relevant to our investigation of TCN’s advertising and marketing claims to consumers.

We are aware, however, of counsel’s concern about the breadth of the term “affiliates” in the CID definition of “Company.” We also recognize that counsel may not have sufficient time before the March 20, 2014 petition deadline to resolve all pending objections. In light of counsel’s concerns and time constraints, staff is willing to recommend removing “affiliates” from the CID definition of “Company” on a provisional basis. Staff is also willing to recommend the extensions proposed in Section III.B below. We reserve the right to seek full compliance with the CID as issued.

B. Definition of “Identify”

We understand that TCN plans to object to the CID definition of “Identify” in its petition to limit or quash.⁶ In your March 14th e-mail, you propose to narrow, for purposes of TCN’s April 21, 2014 production, the definition of “identify” to exclude, *inter alia*, addresses and telephone numbers.

We cannot agree to a CID-wide proposal to exclude addresses and telephone numbers from the CID definition of “Identify.” The contact information of TCN employees, agents, consultants, and other persons working for or on behalf of TCN—including TCN salespersons and representatives throughout the country—is relevant to our investigation of TCN’s advertising and marketing claims to consumers. While we understand your concern about avoiding undue burden to your client in responding to the CID, we note that we have not received information necessary to allow any narrowing of this definition.

Nonetheless, in light of counsel’s time constraints, staff is willing to recommend:

- (1) Extending to April 21, 2014 the deadline for TCN, using the definitions of “Identify” and “Company” proposed in your e-mail of March 14th and in subsequent e-mails with staff on March 17, 2014, (a) to respond to Interrogatory Specifications 5, 7–14, 18, 20–36, 38–39, 41–42, and Document Specifications 4, 14–15, 23–29, 30, 32–34, 36; and (b) to supplement responses to Interrogatory Specifications 3, 6, 15, 16 and

⁶ Mr. Dahdouh’s February 27th letter did not extend the original February 10, 2014 deadline for TCN to file a petition to limit or quash any CID definitions.

Document Specifications 9, 17, 18, 19;

- (2) Extending to May 5, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed above in Section III.A (original CID definition without "affiliates"), (a) to respond to Interrogatory Specification 40 and Document Specifications 16, 21, 22, 31, 35; and (b) to supplement responses to Document Specification 20; and
- (3) Extending to May 19, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed above in Section III.A, (a) to respond to Interrogatory Specification 37 and Document Specifications 6, 10, 11, 12; (b) to supplement responses to Document Specifications 2, 7, 8 and all other CID specifications; and (c) to produce all e-mails responsive to the CID.

We reserve the right to seek full compliance with the CID as issued.

C. E-mails

TCN proposes to forward a list of relevant custodians this week. In light of TCN's plans to provide such a list, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to produce all e-mails responsive to the CID. If, in the future, TCN needs additional time to produce e-mails, we are happy to consider a request for extension once TCN provides specific information supporting the need for more time.

IV. Status of Discussions

We appreciate your time and continued attention to this matter. If you agree to staff's proposed extensions and provisional modifications, we will recommend to our Regional Director that deadlines be extended in accordance with this letter.

Please do not hesitate to call me or Mr. Jacobs at (310) 824-4360 if you have any questions or concerns.

Sincerely,



Yan Fang

cc: Thomas A. Brodnik
tbrodnik@dtblegal.com

Richard B. Kaufman
rkaufman@dtblegal.com

John D. Jacobs
jjacobs@ftc.gov

**EXHIBIT G
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC



United States of America
FEDERAL TRADE COMMISSION
WESTERN REGION

March 19, 2014

VIA E-MAIL

Jeanne M. Cors
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202
cors@taftlaw.com

Re: Civil Investigative Demand issued to The College Network, Inc.
FTC File No. 1323236

Dear Ms. Cors:

With respect to the Civil Investigative Demand ("CID") issued by the Federal Trade Commission ("FTC") to The College Network, Inc. ("TCN") on January 16, 2014, I have authorized the extensions and provisional modifications recommended in staff's letter dated March 17, 2014, which is incorporated fully herein by reference. Accordingly,

- (1) April 21, 2014 is the deadline for TCN, using the definitions of "Identify" and "Company" proposed in your March 14, 2014 e-mail to staff and in subsequent e-mails on March 17, 2014 with staff, (a) to respond to Interrogatory Specifications 5, 7-14, 18, 20-36, 38-39, 41-42, and Document Specifications 4, 14-15, 23-29, 30, 32-34, 36; and (b) to supplement responses to Interrogatory Specifications 3, 6, 15, 16 and Document Specifications 9, 17, 18, 19;
- (2) May 5, 2014 is the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed in Section III.A of staff's March 17th letter, (a) to respond to Interrogatory Specification 40 and Document Specifications 16, 21, 22, 31, 35; and (b) to supplement responses to Document Specification 20; and
- (3) May 19, 2014 is the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed in Section III.A of staff's March 17th letter, (a) to respond to Interrogatory Specification 37 and Document Specifications 6, 10, 11, 12; (b) to supplement responses to Document Specifications 2, 7, 8 and all other CID interrogatory and document specifications; and (c) to produce all e-mails responsive to the CID.

In addition, I have authorized the following provisional modifications:

- (1) The word "List" will replace "Identify" in Interrogatory Specifications 24 and 31; and

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(2) TCN may defer responding to Interrogatory Specification 37.c until staff has reviewed TCN's April 21st production.

These extensions and provisional modifications are conditioned on the accuracy and completeness of the information we have received from you to date. If such information is inaccurate or incomplete, the FTC reserves the right to reexamine any issue affected by the extensions or modifications granted herein. In addition, these extensions and provisional modifications are conditioned on TCN's continued progress in achieving compliance with the CID. For each of the requests for which the FTC agrees to extend or modify, the FTC does so without waiver of its rights, and it reserves its rights to seek full compliance with the CID as issued.

Should you have any further questions about the CID, please do not hesitate to call Yan Fang at (415) 848-5150 or John Jacobs at (310) 824-4360.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas N. Dahdouh', written in a cursive style.

Thomas N. Dahdouh
Regional Director
Western Region



United States of America
FEDERAL TRADE COMMISSION
WESTERN REGION

Yan Fang, Attorney

901 Market Street, Suite 570
San Francisco, CA 94103

(415) 848-5150
yfang@ftc.gov

March 17, 2014

VIA E-MAIL

Jeanne M. Cors
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202
cors@taftlaw.com

Re: Civil Investigative Demand issued to The College Network, Inc.
FTC File No. 1323236

Dear Ms. Cors:

We have received your e-mail of March 14, 2014 proposing extensions to and modifications of the Civil Investigative Demand ("CID") that the Federal Trade Commission ("FTC") issued to The College Network, Inc. ("TCN") on January 16, 2014.

We appreciate your willingness to reach agreement on certain CID specifications while preparing to petition to limit or quash others. In response to your proposal, staff is willing to recommend:

- (1) Extending to April 21, 2014 the deadline for TCN, using the definitions of "Identify" and "Company" proposed in your e-mail of March 14th and in subsequent e-mails with staff on March 17, 2014, (a) to respond to Interrogatory Specifications 5, 7-14, 18, 20-36, 38-39, 41-42, and Document Specifications 4, 14-15, 23-29, 30, 32-34, 36; and (b) to supplement responses to Interrogatory Specifications 3, 6, 15, 16 and Document Specifications 9, 17, 18, 19;
- (2) Extending to May 5, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed below in Section III.A, (a) to respond to Interrogatory Specification 40 and Document Specifications 16, 21, 22, 31, 35; and (b) to supplement responses to Document Specification 20; and
- (3) Extending to May 19, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed below in Section III.A, (a) to respond to Interrogatory Specification 37 and Document Specifications 6,

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10, 11, 12; (b) to supplement responses to Document Specifications 2, 7, 8 and all other CID specifications; and (c) to produce all e-mails responsive to the CID.

Staff further proposes to recommend provisional modifications of several CID specifications. These extensions and provisional modifications are conditioned on TCN's continued progress in achieving compliance with the CID. For each of the requests for which the FTC agrees to extend or modify, the FTC does so without waiver of its rights, and it reserves its rights to seek full compliance with the CID as issued. We hope our proposed extensions and provisional modifications will balance any hardship to TCN with the need to advance the FTC's investigation. We discuss your specific requests and our proposals below.

I. Interrogatory Specifications

A. Interrogatory Specification 1

Counsel has raised concerns about the breadth of the term "affiliates" in the CID definition of "Company."¹ In light of counsel's concerns, staff is willing to recommend the removal of "affiliates" from this specification on a provisional basis. We reserve the right to seek full compliance with the CID as issued.

B. Interrogatory Specification 3

TCN proposes limiting "any further response to the identification of those additional personnel with primary responsibility (if any) for the enumerated topics."²

The identity of TCN officers, employees, contractors, consultants, affiliates, and agents with knowledge about the subjects listed in this specification—for example, TCN's relationships with universities, the number of TCN customers who have obtained a degree, the acceptance of TCN's educational products and services for course credit, and the substantive expertise of TCN's academic support staff—is relevant to our investigation of TCN's advertising and marketing claims, including those claims identified in Interrogatory Specifications 27 and 28.

Before we can consider narrowing this specification, we would like to understand who would fall under TCN's proposed modification. For example, would mid-level managers, contractors, consultants, and agents with substantial knowledge about any of the specified subjects fall within TCN's proposed "primary responsibility" language? Counsel has explained that TCN has more than one hundred employees in its Indianapolis and Las Vegas offices, in

¹ Regional Director Thomas Dahdouh's letter dated February 27, 2014 retains February 20, 2014 as the deadline for TCN to respond to this specification. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash this specification.

² Mr. Dahdouh's February 27th letter retains February 20, 2014 as the deadline for TCN to "identify the names, job titles, departments or divisions, and contact information of individuals likely to have knowledge about the subjects specified by Interrogatory Specification 3." His letter retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash portions of this specification due on February 20th.

addition to hundreds of independent consultants and lead vendors around the country. To date, TCN has named four individuals as having “direct responsibility for or the most knowledge (if any)” about the specified subjects. See TCN’s February 20, 2014 Answer to Interrogatories.

C. Interrogatory Specifications 15, 16

TCN proposes limiting supplemental responses to Specification 15.c(iv–v) “to a static report by year and Program of total amounts refunded to customers within the 5-day cancellation period and outside the 5-day cancellation period.”³ TCN also proposes limiting supplemental responses to the lower paragraph of Document Specification 16 “to a static report by year and Program of total amounts refunded to customers within the 5-day cancellation period and outside the 5-day cancellation period.”

Counsel has explained that TCN can provide only “static” refund figures because TCN applies refund amounts to the year in which a program was purchased, irrespective of when TCN made the refund. Thus, for example, the “static” refund figure TCN would produce for 2011 may include refunds that TCN actually made in 2011, 2012, 2013, or 2014. Counsel also states that TCN does not calculate “rates.”

In light of counsel’s explanations, staff is willing to recommend (1) the provisional removal of “rates” from these specifications, and (2) the provisional acceptance of reports containing “static” figures in response to Document Specification 15.c(iv–v) and the lower paragraph of Document Specification 16. We reserve the right to seek subsequent “static” figures and to seek full compliance with the CID as issued.

D. Interrogatory Specification 37

TCN has not raised any objection to this specification during our phone conferences. Nonetheless, in an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond this specification.

E. Interrogatory Specification 40

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond to this specification. While we understand your concern about avoiding undue burden to your client in responding to this specification, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about categories of commonly received complaints and processes for resolving complaints, but we have not yet received a response.

³ Mr. Dahdouh’s February 27th letter retains February 20, 2014 as the deadline for TCN to respond to Interrogatory Specification 15. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash this specification.

II. Document Specifications

A. Document Specification 2

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond to this specification. We note that since this specification requests only the production of documents “sufficient to show” the information requested by Interrogatory Specification 4, the specification is limited by its own terms.

B. Document Specification 4

TCN states that “the information requested is not data compiled and retained by TCN” and proposes to limit this specification to “any reports or summary data.” Before we can consider limiting this specification, we would like to understand how TCN defines “reports” and “summary data” and whether TCN has any other documents showing the requested information. For example, TCN’s website features a map showing the availability of the LPN/LVN to BS in nursing program. Does TCN have brochures, handbooks, memoranda, letters, agreements, certificates, or other maps and documents showing the requested information?

C. Document Specification 6

TCN proposes limiting this specification to “any changes checklists and track changes Word files.” Before we can consider limiting this specification, we would like to understand what other responsive documents exist. For example, are there schedules showing when Comprehensive Learning Modules (“CLMs”) and equivalency exams are updated or revised? Are there agreement, letters, or other documents showing the hiring of authors to update or revise CLMs and equivalency exams? In an effort to reduce any unnecessary burden on TCN, however, staff is willing to recommend extending to May 19, 2014 the deadline for supplemental responses to this specification.

D. Document Specifications 7, 8

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for supplemental responses to these specifications.⁴ Staff proposes discussing TCN’s supplemental responses to these specifications in a phone conference.

⁴ Mr. Dahdouh’s February 27th letter retains February 20, 2014 as the deadline for TCN to respond to these specifications. It also retains February 10, 2014 as the deadline for TCN to file any petition to limit or quash these specifications.

E. Document Specifications 10, 11, 12

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to respond to these specifications.

F. Document Specification 14

TCN proposes limiting this specification to “copies of written policies or procedures.” Before we can consider limiting this specification, we would like to understand how TCN’s proposed modification would differ from the documents otherwise requested by this specification. We note that since this specification requests only the production of documents “used to prepare” TCN’s response to corresponding interrogatory specifications, Document Specification 14 is limited by its own terms.

G. Document Specification 15

TCN proposes limiting this specification to “the customer file for each referenced customer.” Consumers’ experiences with TCN’s educational products and services is relevant to our investigation, and we cannot agree to any narrowing of this specification without understanding what TCN means by “customer file.” Moreover, this specification is limited to thirty specified consumers.

We also note that this specification states, “If any such recordings, transcripts, or documents will not be produced, contact [staff] to identify other individuals for whom the requested items shall be produced.” In its letter dated March 6, 2014, TCN states that it “does have responsive recordings with respect to some of the individuals listed in this Specification,” suggesting that recordings are not available for all of the listed individuals. If TCN does not in fact have recordings and transcripts for certain individuals listed in this specification, TCN will need to identify those individuals to the FTC so that we may provide TCN with names of other consumers as to whom the requested items should be produced. We would also like to understand why any documents, including recordings and transcripts, are not available.

H. Document Specifications 16, 35

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond to these specifications. While we understand your concern about avoiding undue burden to your client in responding to these specifications, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about categories of commonly received complaints and processes for resolving complaints, but have not yet received a response.

I. Document Specifications 17, 18

TCN proposes (1) limiting Specification 17 to “written policies and procedures (including prior versions)” and (2) limiting Specification 18 to “training materials, policies,

procedures, training manuals, training podcasts, and copies of any handouts and prior versions of these materials. TCN has not explained, however, whether any other documents responsive to these specifications exist. Before we can consider limiting these specifications, we would like to understand whether any other responsive documents exist.

J. Document Specifications 20, 21, 22

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for (1) supplemental responses to Document Specification 20 and (2) responses to Document Specifications 21 and 22. While we understand your concern about avoiding undue burden to your client in responding to this specification, we note that we have not received information necessary to allow any narrowing of this specification. For example, we have requested information about the quantity and types of advertisements at issue, but have not yet received a response.

K. Document Specification 30

TCN proposes limiting this specification to “copies of testimonials, applicable releases and scripts (if any).” Before we can consider narrowing this specification, we would like to understand what types of agreements, communications, and other documents exist with respect to all persons providing a testimonial or endorsement, including consumers, representatives from colleges and universities, and representatives from accrediting organizations, hospitals, healthcare organizations, and nursing or other trade associations.

TCN also states, “TCN does not compensate individuals who provide testimonials.” We would like to understand how TCN defines the term “compensate.” For example, does TCN offer discounts to TCN endorsers?

L. Document Specification 31

In an effort to reduce any unnecessary burden on TCN, staff is willing to recommend extending to May 5, 2014 the deadline for TCN to respond this specification.

III. Other Issues

A. Definition of “Company”

We understand that TCN plans to object to the CID definition of “Company” in its petition to limit or quash.⁵ In your March 14th e-mail and in subsequent e-mails with staff on March 17, 2014, you propose to narrow, for purposes of TCN’s April 21, 2014 production, the CID definition of “Company” to “The College Network, Inc. and its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, and operations under assumed names,

⁵ Mr. Dahdouh’s February 27th letter did not extend the original February 10, 2014 deadline for TCN to file a petition to limit or quash any CID definitions.

including College Network Inc. and The College Network Inc., and all directors, officers, and employees.” For numerous CID specifications identified in your March 14th e-mail, you further propose to limit the production of “Company” documents to those in “TCN’s files” or “its files.”

We cannot agree to a CID-wide proposal to remove “agents, consultants, and other persons working for or on behalf of the foregoing” from the CID definition of “Company.” Nor can we agree to limit the production of “Company” documents to those “in TCN’s files” or “in its files,” as you propose to define “Company.” As we have explained during phone conferences, the identity, documents, and communications of persons working for or on behalf of TCN—including TCN salespersons and representatives throughout the country—are relevant to our investigation of TCN’s advertising and marketing claims to consumers.

We are aware, however, of counsel’s concern about the breadth of the term “affiliates” in the CID definition of “Company.” We also recognize that counsel may not have sufficient time before the March 20, 2014 petition deadline to resolve all pending objections. In light of counsel’s concerns and time constraints, staff is willing to recommend removing “affiliates” from the CID definition of “Company” on a provisional basis. Staff is also willing to recommend the extensions proposed in Section III.B below. We reserve the right to seek full compliance with the CID as issued.

B. Definition of “Identify”

We understand that TCN plans to object to the CID definition of “Identify” in its petition to limit or quash.⁶ In your March 14th e-mail, you propose to narrow, for purposes of TCN’s April 21, 2014 production, the definition of “identify” to exclude, *inter alia*, addresses and telephone numbers.

We cannot agree to a CID-wide proposal to exclude addresses and telephone numbers from the CID definition of “Identify.” The contact information of TCN employees, agents, consultants, and other persons working for or on behalf of TCN—including TCN salespersons and representatives throughout the country—is relevant to our investigation of TCN’s advertising and marketing claims to consumers. While we understand your concern about avoiding undue burden to your client in responding to the CID, we note that we have not received information necessary to allow any narrowing of this definition.

Nonetheless, in light of counsel’s time constraints, staff is willing to recommend:

- (1) Extending to April 21, 2014 the deadline for TCN, using the definitions of “Identify” and “Company” proposed in your e-mail of March 14th and in subsequent e-mails with staff on March 17, 2014, (a) to respond to Interrogatory Specifications 5, 7–14, 18, 20–36, 38–39, 41–42, and Document Specifications 4, 14–15, 23–29, 30, 32–34, 36; and (b) to supplement responses to Interrogatory Specifications 3, 6, 15, 16 and

⁶ Mr. Dahdouh’s February 27th letter did not extend the original February 10, 2014 deadline for TCN to file a petition to limit or quash any CID definitions.

Document Specifications 9, 17, 18, 19;

- (2) Extending to May 5, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed above in Section III.A (original CID definition without "affiliates"), (a) to respond to Interrogatory Specification 40 and Document Specifications 16, 21, 22, 31, 35; and (b) to supplement responses to Document Specification 20; and
- (3) Extending to May 19, 2014 the deadline for TCN, using the original CID definition of "Identify" and the provisional definition of "Company" proposed above in Section III.A, (a) to respond to Interrogatory Specification 37 and Document Specifications 6, 10, 11, 12; (b) to supplement responses to Document Specifications 2, 7, 8 and all other CID specifications; and (c) to produce all e-mails responsive to the CID.

We reserve the right to seek full compliance with the CID as issued.

C. E-mails

TCN proposes to forward a list of relevant custodians this week. In light of TCN's plans to provide such a list, staff is willing to recommend extending to May 19, 2014 the deadline for TCN to produce all e-mails responsive to the CID. If, in the future, TCN needs additional time to produce e-mails, we are happy to consider a request for extension once TCN provides specific information supporting the need for more time.

IV. Status of Discussions

We appreciate your time and continued attention to this matter. If you agree to staff's proposed extensions and provisional modifications, we will recommend to our Regional Director that deadlines be extended in accordance with this letter.

Please do not hesitate to call me or Mr. Jacobs at (310) 824-4360 if you have any questions or concerns.

Sincerely,



Yan Fang

cc: Thomas A. Brodnik
tbrodnik@dtblegal.com

Richard B. Kaufman
rkaufman@dtblegal.com

John D. Jacobs
jjacobs@ftc.gov

**EXHIBIT H
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC

AFFIDAVIT OF CORY EYLER

STATE OF INDIANA §
 §
COUNTY OF MARION §

BEFORE ME, the undersigned authority, on this day personally appeared Cory Eyler, who, being first duly sworn on his oath, stated as follows:

1. My name is Cory Eyler. I am over the age of eighteen (18) years old and am competent to make this affidavit. I am Vice President and Chief Marketing Officer of The College Network, Inc., and have personal knowledge of the facts set forth herein.

2. The marketing department, including myself, consists of five (5) individuals.

3. I have reviewed Document Specifications E.17 through F.31 and Interrogatory Specifications E.22 through F.36 of the CID, all of which relate to marketing and advertising. It is my department which has primary responsibility and oversight for marketing and advertising.

4. To date, I estimate that the individuals in my department, including myself, have spent in excess of 100 hours in locating, gathering, reviewing and producing documents which (1) have been produced previously; and (2) which will be produced in the future because no objection to the CID will be made. I estimate several hundred hours more time will be spent by my department in completing the production of documents to which no objection is being made.

5. With regard to the specifications which are the subject of the petition to quash, because of the breadth of the CID, independent contractors and lead vendors would be drawn within the CID's ambit. During the time period of the CID, TCN's products and services have been sold through a network of approximately 140 independent contractors located around the United States. New independent contractors are consistently added, while other independent contractors leave the company. During the time period of the CID, TCN has used approximately 125 lead vendors. I am unaware of any ability of TCN to demand production of those types of

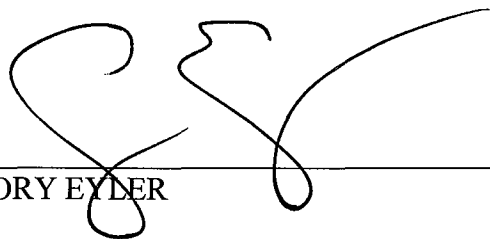
documents from independent contractors or lead vendors. The number of links or advertisements generated in a single day would be between 3,000 and 6,000, and would appear on an unknowable number of websites and webpages. As an example only, Document Specification F.20 requires the production of advertisements, including those on “websites,” banner ads,” and sponsored links.” The document specification further specifically includes “all websites and webpages (whether or not operated by the Company)” and the production must include “copies of all versions of such websites and webpages, . . . , including but not limited to: a. screenshots of such websites and webpages; b. all past or archived versions of such websites and webpages; and c. all source code, programs, log files, and scripts related to such websites and webpages.” Needless to say, the production of all websites and webpages, including source code and programs, for websites and websites “not operated by the Company” would be a daunting task. As the CID’s time period extends until the date of full compliance with its terms, and because of the amount of information requested from the number of individuals/entities discussed above, it is unlikely TCN could ever “complete” its production under the express terms of the CID. Moreover, Document Specifications F.21, F.22, F.28 and F.29 incorporate Document Specification F.20 within their terms. Accordingly, and as an example only, Document Specification F.22 would require the production of a “dissemination schedule, including the dates and times of dissemination,” among other things, for the 3,000 - 6,000 links or advertisements generated in a single day, as stated above. This is simply impossible.

6. Moreover, neither independent contractors who sell TCN’s products nor the lead vendors are authorized to edit, change or modify TCN advertising. Accordingly, there should be no need for any documentation from third parties. Regardless, even limiting the scope of the CID to TCN only, I estimate it will take my entire department, including myself (five

individuals), at least four weeks, working full-time, to locate, gather, review and produce the requested documents.

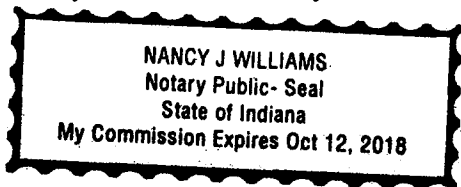
7. Accordingly, under the best of circumstances, and with this one request narrowed to TCN only, the entire marketing department would be required to cease working on all day-to-day marketing operations and duties for at least one month to comply with the CID specifications to which objection is being made. There are no other employees within the company who are knowledgeable enough (or who even if knowledgeable enough would have the time), to take over the day-to-day operations of my department. If the company's marketing department ceased operations for such a time period, it is likely the company would cease operations. Without marketing, the company would be unable to generate leads, which in turn would mean the company could not turn leads into sales.

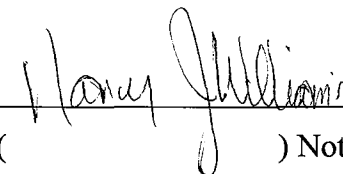
FURTHER AFFIANT SAITH NOT.



CORY EYLER

SWORN TO AND SUBSCRIBED before me on this 19 day of March, 2014, by Cory Eyer, to certify which witness my hand and seal of office.





() Notary Public

My Commission Expires:

10/12/18

My County of Residence is:

Marion

**EXHIBIT I
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC

AFFIDAVIT OF GARY FAIR

STATE OF INDIANA §
 §
COUNTY OF MARION §

BEFORE ME, the undersigned authority, on this day personally appeared Gary Fair, who, being first duly sworn on his oath, stated as follows:

1. My name is Gary Fair. I am over the age of eighteen (18) years old and am competent to make this affidavit. Since, the end of 2011, I have been the Vice President of Call Center Operations for The College Network, Inc. (I have been employed by TCN for eight years), and have personal knowledge of the facts set forth herein.

2. Included within my job duties is to oversee the department within the company which receives, responds to, and, if possible, resolves various customer complaints or issues.

3. During my tenure, the company has received “complaints” from customers that (a) the location where a particular end-of-course equivalency examination is being offered by a third party testing agency is too far away from the customer’s home; (b) the subject matter of a particular CLM is “too hard”; (c) the customer’s spouse has left them and therefore they cannot afford the materials they have purchased; (d) the customer has moved to another state; (e) the customer has taken ill; and (f) the customer simply decided they no longer are interested. None of the above “complaints” have anything to do with the company. There are many more examples of these types of “complaints” I could recite.

4. The time period of the CID is 2011-present. However, because no “time limit” is placed on when customers must stop using the company’s products, “complaints” have been received during 2011-present from customers dating to before 2011. Accordingly, although the


CID purports to limit the time period to 2011-present, every customer file, regardless of when obtained, would have to be reviewed to determine if a customer "complained" in 2011-present.

5. Further, while the computer system in which certain customer files are kept does contain a field to capture certain types of "complaints," including those received from a state attorney general, the Better Business Bureau, or even an attorney, it does not capture all "complaints." Nor is it possible to identify key word searches to capture all "complaints," as the types of "complaints," as detailed in part in paragraph 3 above, are varied. Accordingly, to capture all "complaints" would require a manual review of over 200,000 customer files, which would likely consist of millions of pages of documents.

6. Due to the breadth and scope of these requests, I cannot even begin to estimate the time, money and manpower that would need to be invested to manually review over 200,000 customer files for every "complaint," regardless of whether these "complaints" relate to the company or not. Suffice it to say that the project would either shut down the company, or take years to complete.

7. To the extent the specifications are limited to those received from state attorneys general, the Better Business Bureau and lawyers, the burden is more manageable, and the project, while still time consuming and manually intensive (because it will require a person to manually go into each file to obtain a copy of the "complaint" and any response), likely could be completed within sixty days.

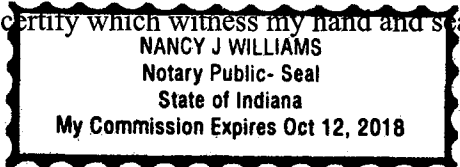
FURTHER AFFIANT SAITH NOT.




GARY FAIR

SWORN TO AND SUBSCRIBED before me on this 19 day of March, 2014, by Gary Fair,

to certify which witness my hand and seal of office.





() Notary Public

My Commission Expires:

10/12/18

My County of Residence is:

Madison

**EXHIBIT J
TO TCN
PETITION TO
QUASH OR LIMIT**

PUBLIC

AFFIDAVIT OF RYAN SALLEE

STATE OF INDIANA §
 §
COUNTY OF MARION §

BEFORE ME, the undersigned authority, on this day personally appeared Ryan Sallee, who, being first duly sworn on his oath, stated as follows:

1. My name is Ryan Sallee. I am over the age of eighteen (18) years old and am competent to make this affidavit. I am Chief Information Officer of The College Network, Inc. ("TCN"). I base these statements on my personal knowledge of the facts set forth herein and information provided to me by IT consultants.

2. The IT Department, including myself, consists of 5 full time personnel.

3. TCN email accounts are managed and stored through Google. TCN does not store or maintain company email on a company server. TCN email accounts are accessed through the internet at <https://mail.google.com>. Each individual account holder has a personalized user name and password.

4. TCN currently has 256 separate active Google email accounts. TCN does not have the capability to search across all 256 email accounts simultaneously. Rather, each account would need to be accessed and searched individually.

5. I was informed by IT consultants that any search of TCN email accounts conducted directly through Google will not be reliable because it will not capture all attachments, including images and attachments in PDF format. I was informed further that to reliably search TCN email accounts individual accounts will first need to be exported by a vendor, formatted (and documents converted where necessary) and indexed.

6. I have reviewed Document Specifications B.10 through B.13 which call for the production of TCN's accounting and customer databases.

7. TCN's customer database consists of records for over 200,000 customers. TCN's customer database has limited fields and is maintained in a cluster server environment. In order to produce a copy of the database to FTC, TCN would need to purchase new servers to house the database as well as a server to house the application. TCN would need to work through a vendor to build an environment to house the data and application. I estimate that given the size of the database and need to customize the application it would take TCN and a vendor many weeks to create a mirror image of the database and application at a cost of approximately \$30,000 plus.

8. The software used to access the customer database is an older version that is no longer supported. The software and licenses would need to be acquired if available from the manufacturer at an additional cost.

9. Requiring TCN to produce a mirror image of the accounting database to FTC would impose similar burdens on TCN. TCN would need to purchase an additional server, software and licenses. TCN would need to work through a vendor to install and configure the database and provide access. I estimate it would take TCN and a vendor several weeks to complete the project at an estimated cost (excluding vendor expenses) of approximately \$10,000-15,000. I estimate that TCN would incur additional vendor expenses of \$2000 - \$5000.

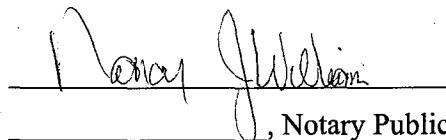
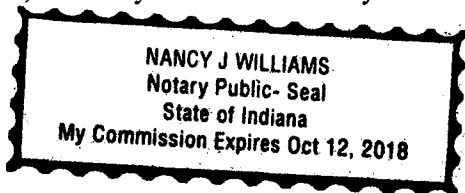
10. Both the accounting and customer database systems would need to be hosted in an area accessible to FTC. Hosting charges would need to be identified. I estimate the cost to acquire this space at approximately \$2,000 - \$5,000 per month.

FURTHER AFFIANT SAITH NOT.



RYAN SALLEE

SWORN TO AND SUBSCRIBED before me on this 19 day of March, 2014, by Ryan Sallee, to certify which witness my hand and seal of office.



_____, Notary Public

My Commission Expires:

October 12, 2018

My County of Residence is:

Marion