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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FEDERAL TRADE COMMISSION,)
)
Petitioner,)
)
v.)
)
APOLLO EDUCATION GROUP, INC.,)
)
and)
)
THE UNIVERSITY OF PHOENIX, INC.,)
)
Respondents.)

Case No.

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I . I N T R O D U C T I O N

The Federal Trade Commission has commenced an investigation to determine whether Respondents, Apollo Education Group, Inc. and the University of Phoenix, Inc. (collectively, the Companies), “have engaged or are engaged 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 viola

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the CIDs without disclosing the contents of the CIDs, or any information provided in response thereto, as permitted by FERPA, 20 U.S.C. §§ 1232g(b)(1)(J)(ii) and 1232g(b)(2)(B). The Companies do not oppose this request.

II. JURISDICTION

Section 20 of the FTC Act authorizes the Commission to issue CIDs to require the production of documentary material relating to any matter under investigation. 15 U.S.C. § 57b-1(c). If a CID recipient fails to comply, the Commission may petition a district court for an order directing the recipient to comply. 15 U.S.C. § 57b-1(e), (h). The statute confers jurisdiction and venue on the district court of the United States in the district where the CID recipient “resides, is found, or transacts business” 15 U.S.C. § 57b-1(e). Apollo Education Group and the University of Phoenix reside, are found, or transact business in this district. Pet. Exh. 1, ¶¶ 3-4.

Under Section 20, the Commission issued the CIDs to Apollo Education Group and the University of Phoenix on July 23, 2015. Pet. Exh. 1, ¶ 6. Because the Companies have not fully complied with the CIDs, the Commission seeks judicial enforcement under 15 U.S.C. §§ 57b-1(e), (h). Further, FERPA authorizes this Court to enter an order requiring Respondents to produce FERPA-protected education records to the FTC without notification to the relevant students and without seeking written consent for the disclosure. 20 U.S.C. §§ 1232g(b)(1)(J)(ii), 1232g(b)(2)(B). The Court has federal question jurisdiction to enter orders pursuant to FERPA under 28 U.S.C. § 1331, and, as in the FTC Act, venue is proper where respondents reside. 28 U.S.C. § 1391(b)(1).

III. STATEMENTS OF FACT

A. The Administrative Record

The Commission is an administrative agency of the United States, organized and existing pursuant to the FTC Act, 15 U.S.C. § 41, *et seq.* The Commission is authorized and directed by

Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), to prevent “unfair methods of competition” and “unfair or deceptive acts or practices in or affecting commerce.”

Respondent Apollo Education Group, Inc. is a private education provider, incorporated in Arizona, with its principal place of business in Phoenix, AZ. Pet. Exh. 1, ¶ 3. The University of Phoenix offers educational programs and services throughout the United States and is a wholly-owned subsidiary of Apollo Education Group, incorporated in Arizona, with its principal place of business in Phoenix, AZ. Pet. Exh. 1, ¶ 4. The University of Phoenix offers undergraduate and graduate degrees in nine schools and operates through a nationwide system of campuses and centers. Collectively, the University of Phoenix has approximately 200,000 curre

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or any of their employees may have engaged in deceptive acts or pra

Thus, where an educational institution receives a subpoena issued for a law enforcement purpose that calls for education records, the institution may produce these records without seeking written consent – and also without notification to those whose education records are being produced – so long as a court or the issuing agency has issued an order, upon good cause shown, directing nondisclosure.³ The Commission and the Companies seek such a nondisclosure order.

disclosure except in limited circumstances. 15 U.S.C. § 57b-2(b), (f). Thus, the confidentiality of students' education records remains protected with an order permitting the Companies to comply with the CIDs without providing notice. These factors thus constitute good cause for entry of an order pursuant to 20 U.S.C. §§ 1232g(b)(1)(J)(ii) and 1232g(b)(2)(B) requiring the Companies to produce responsive education records without disclosing the contents of the CIDs or any information furnished in response.

V. CONCLUSION

For these reasons, the Court should enter the FTC's proposed