

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

DAVE MCCORMICK, T'LANI ROBINSON,  
DENNIS MAGANA, SCOTT SWINDELL,  
DAVID TOROSYAN, and ROBBY BROWN,  
individually and on behalf of all others similarly  
situated,

*Plaintiffs,*

v.

ADTALEM GLOBAL EDUCATION, INC.,  
formerly known as DEVRY EDUCATION  
GROUP, INC., a Delaware corporation, DEVRY  
UNIVERSITY, INC., a Delaware corporation,

*Defendants.*

Case No.: 2018-CH-04872

Hon. Michael T. Mullen

**STATUS REPORT ON CONTINUING SETTLEMENT ADMINISTRATION ISSUES**

In advance of the status hearing taking place in connection with this matter on June 22, 2023, Plaintiffs submit the following status report to apprise the Court on the new problems that the current settlement administrator, BrownGreer PLC (“BrownGreer”), discovered with respect to the prior settlement administrator’s, Kroll Settlement Administration LLC f/k/a Heffler Claims Group (“Kroll”), eligibility determinations regarding graduate payments. These new problems, which BrownGreer discovered mere hours before checks were going to be mailed, are unrelated to the calculation errors that Kroll assured the Court was the only problem with their previous work and are outside the scope of what the Parties understood BrownGreer needed to redo.

This report details the steps that BrownGreer has taken to identify the scope and cost of the issue, and proposes several potential paths forward to address with the Court, including a round of supplemental notice to all Settlement Class Members informing them of the status of the case. Class Counsel is extraordinarily concerned about the prospect of an additional delay

and requests the Court's guidance in determining how to fix this problem in a way that is fair to Settlement Class Members who have already waited far longer than they should have for payments.

1. The last status hearing in this case was held on May 23, 2023. At that status hearing, the Parties and Kroll reported that the recalculated settlement payments had been finalized, that BrownGreer may need to answer a few last-minute questions from Kroll's data team, but that they expected to send data to the printer so that checks could be mailed out to eligible Settlement Class Members. Following the status hearing, data was sent to the printer, and based on the printer's updated timeline to get all of the checks and associated mailings prepared, checks were scheduled to be sent out by June 9, 2023.

2. The banner of the Settlement Website was updated with this information, and a new version of "Frequently Asked Questions" was added to the Settlement Website that explained the timeline for these mailings, what Settlement Class Members could expect to receive, reiterated the methodology for the recalculated settlement amount, and provided contact information for BrownGreer to address any questions about how the ultimate settlement payment amount was recalculated.

3. In connection with the finalization of the recalculated settlement payments and the setting of their presumptive mailing date, BrownGreer started fielding a significant uptick in questions from Settlement Class Members asking about what amount they could expect in their recalculated settlement payment. Because the recalculated settlement payments were at that point finalized, BrownGreer was able to provide the settlement payment, and a breakdown of how that settlement payment was recalculated, to Settlement Class Members who asked.

4. As BrownGreer was responding to these inquiries, they noticed that certain

Settlement Class Members were starting to tell them that the numbers didn't seem right. Investigating these responses, a pattern emerged. The proposed recalculation spreadsheet that Kroll shared fixing the error that Kroll identified that precipitated the initial payment stoppage contained another error that has just come to light. Kroll continued to mark many Settlement Class Members as ineligible for a graduate payment even after fixing the original coding error, when in fact, these Settlement Class Members contended that they did not find a job in their field of study within six months of their graduation and indicated as much on the forms that they submitted. Thus, should this align with DeVry's attendance data, they would be eligible for a graduate payment.

5. To understand BrownGreer's investigation into these claims and resultant findings, which began in earnest on June 9, it helps to recall the scope of BrownGreer's audit into the recalculated payment figures Kroll provided. After it canceled the original batch of checks, Kroll asserted that the graduate payment eligibility errors were limited to a database coding error: individuals who submitted digital claim forms indicating they did not receive a job in their field of study were coded as "null," as if they had not responded to the question at all. (*See* Ex. 1, Declaration of Scott M. Fenwick, ¶ 5.) These individuals who submitted digital claim forms were deemed ineligible to receive a graduate payment. Kroll ostensibly corrected this coding error in the recalculated settlement payment data that it provided BrownGreer and the Parties in November 2022. (*Id.* ¶ 6.) Thus, the scope of Kroll's error ostensibly extended to the manner in which it coded the graduate payment eligibility of certain Settlement Class Members who submitted a digital claim form. It was this information that BrownGreer was originally slated to audit. (*See* Nov. 2, 2022 Stipulation and Order Resolving Interim Settlement Administration Issues ¶ 8.)

6. As the Court is aware, additional errors were discovered related to missing degree information and other data that Kroll had never requested from DeVry, which necessitated additional efforts by BrownGreer to obtain such data and incorporate into the recalculated payments. For example, BrownGreer requested, and DeVry provided, additional information reflecting any degrees and credits earned within the relevant time period that Kroll had not obtained. BrownGreer thus found that more Settlement Class Members had earned degrees than Kroll's recalculations reflected. In instances in which a Settlement Class Member, based on the new data that BrownGreer obtained, was now associated with a degree, BrownGreer looked to see whether they were eligible for a settlement payment based on the information otherwise provided in Kroll's recalculated spreadsheet.

7. The scope of BrownGreer's audit and recalculation efforts did not, however, extend to analyzing whether, for every single Settlement Class Member, Kroll accurately processed claims forms and determined graduate payment eligibility beyond correcting for the coding error. In other words, once the coding error was fixed, BrownGreer otherwise relied on Kroll's eligibility determinations. Thus, for individuals who had the same number of degrees across Kroll's original data and BrownGreer's additional data requests, the Parties decided that BrownGreer could rely on Kroll's eligibility determinations. BrownGreer did not review whether Kroll accurately transferred the information from paper claim forms, nor did it affirmatively contact Settlement Class Members to follow up on missing fields in claim forms. BrownGreer's remit was to fix what was broken, not to completely redo every element of Kroll's administration.

8. Turning back to the Settlement Class Members who Kroll continued to mark as ineligible for graduate payments, BrownGreer, based on what it was hearing from Settlement

Class Members, began investigating whether those eligibility determinations may have been wrong. BrownGreer circulated to Class Counsel examples of Settlement Class Members who, based on the data in the recalculated spreadsheet, should have been eligible for a graduate payment, but that Kroll had indicated were ineligible. Because of the interdependent nature of all Settlement Class Members' payments, Class Counsel instructed BrownGreer to not mail out checks on June 9, and to further investigate the underlying claim forms and data, how that compared against the information in the recalculated spreadsheet that Kroll provided, and the potential scope of the problem.

9. Over the next week, BrownGreer undertook that effort for all of the nearly 3,000 individuals that Kroll had determined were still ineligible for a graduate payment in its recalculated spreadsheet (i.e., after Kroll fixed the aforementioned coding error). BrownGreer identified 532 Settlement Class Members who Kroll determined in its recalculated spreadsheet were ineligible for a graduate payment, but from the claim form data and additional data that BrownGreer otherwise gathered, reflected they should be eligible for graduate payments. The value of graduate payments associated with those individuals is \$430,500.

10. BrownGreer has not yet determined exactly how Kroll's eligibility determinations came to be wrong. Based on the mismatched data between paper claim forms and Kroll's recalculated spreadsheet, it appears this information could have been erroneously transcribed, or, more likely, an autoformatting feature in Excel changed the format of the date that Kroll input in a way that changed the year associated with the date the Settlement Class Member obtained a job. In other instances, it appears that Kroll made the ineligibility determination based on data that it did not have in its possession; additional data that BrownGreer obtained showed that Kroll's determination was wrong. Correcting these specific Kroll errors was outside the scope of

the work BrownGreer has done to date.

11. With this discovery of yet another issue on the eve of checks being mailed, BrownGreer and Parties are in an untenable situation. It is fundamentally unfair that the Settlement Class should have to continue to wait for still more issues to be discovered and corrected before they get funds that are rightfully theirs. Class Counsel therefore requests the Court's input and approval on the next steps necessary to get corrected payments to Settlement Class Members as expeditiously as possible, and to inform them en masse as to the reasons for the delay.

12. As a starting point to that end, Class Counsel proposes a Court-approved notice plan that would send email notice to the Settlement Class informing them of what's gone on to this point, and the efforts that all Parties and BrownGreer have undertaken to correct these issues. While BrownGreer and Class Counsel have collectively spoken with hundreds of Settlement Class Members, an official Court-sanctioned update would reasonably carry more weight. While Settlement Class Members are justifiably upset at the time it has taken to rectify Kroll's errors, this notice would confirm that the Court is and has been apprised of the situation and is continuing to oversee the case to make sure it reaches its conclusion as quickly and efficiently as possible. It would also, hopefully, reduce the increasing number of legal and reputational threats lodged against BrownGreer and Class Counsel, notwithstanding that they're doing everything within their power to get the correct settlement payments mailed out to the Settlement Class. Class Counsel proposes providing the Court—after input from Defendants—a copy of this draft notice after a general distribution plan is approved.

13. Regarding the distribution of settlement funds, checks have been printed and are ready to mail, but the amounts are not going to be correct. One option could be to send those

checks now with subsequent payments as appropriate after the last of Kroll's errors are fixed, with Kroll to foot the bill for any overpayments. This option would get funds into Settlement Class Members' hands the most quickly but extend the settlement administration effort on the backend while corrected payments are calculated, balanced against outstanding payments, and mailed out.

14. Another option would be to destroy the existing checks (with Kroll to pay for the administrative costs incurred to this point), have BrownGreer complete its investigation into Kroll's underlying eligibility calculations, and issue the checks thereafter. While this would not be as immediate as sending the checks already printed, it would mean only one mailing. This process should also not require BrownGreer to get new data from DeVry, meaning this element of the audit should take substantially less time than the initial portion. Settlement Class Members are likely to be extremely displeased with another delay, however, and rightfully so. This is not their fault.

15. At Thursday's status hearing, Class Counsel will be prepared to discuss these proposals, answer any questions about them, and address any other items the Court may want to cover. In the meantime, Class Counsel will continue to work with BrownGreer to identify and correct the issues discussed herein.

Respectfully submitted,

**DAVE MCCORMICK, T'LANI  
ROBINSON, DENNIS MAGANA,  
SCOTT SWINDELL, DAVID  
TOROSYAN, and ROBBY BROWN,**  
individually and on behalf of the Settlement  
Class,

Dated: June 21, 2023

By: /s/ Michael Ovca  
Settlement Class Counsel

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**CERTIFICATE OF SERVICE**

I, Michael Ovca, an attorney, hereby certify that on June 21, 2023, at Chicago, Illinois, I filed the foregoing document by electronic means with the Clerk of the Circuit Court of Cook County, and that I served same upon counsel of record using the Odyssey File & Serve Electronic Filing System.

/s/ Michael Ovca

FILED DATE: 6/21/2023 12:11 PM 2018CH04872