

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

**STIPULATION AND [PROPOSED] ORDER RESOLVING ^{MTM}
INTERIM SETTLEMENT ADMINISTRATION ISSUES**

This matter coming before the Court by stipulation of the Parties and non-Party Kroll Settlement Administration LLC ("KSA"), and subject to Court approval.

IT IS HEREBY STIPULATED as follows:

Definitions

1. "KSA" means Kroll Settlement Administration LLC (formerly Heffler Claims Group).
2. "Class Members" means the Class Members who were entitled to receive a settlement payment pursuant to this Court's order approving settlement dated October 8, 2020 ("Settlement Order").
3. "Edelson" means Edelson PC, counsel for the Settlement Class.

4. The “Parties” means the Class Members and Defendants in the above-captioned matter, acting by and through their undersigned counsel of record.

5. “New Check” shall mean a check in the amount each Class Member is entitled to receive after BrownGreer (defined below) accounts for all previously received sums, Reliance Payments (defined below), all reimbursements to KSA, and other setoffs.

Terms of Stipulation

6. Settlement Administrator: KSA shall no longer serve as Settlement Administrator in this action and is relieved of the rights, duties, and obligations of that position effective immediately. The Parties, subject to the Court’s approval of this stipulation, agree to the appointment of BrownGreer PLC (“BrownGreer”) as the Settlement Administrator.

7. Transfer of Escrow Account: KSA shall immediately transfer the funds in the Escrow Account established under the Settlement Agreement (i.e., the settlement funds) to an escrow account created by BrownGreer. KSA, the Parties, and BrownGreer shall cooperate to expeditiously effectuate the foregoing transfer.

8. Revised Calculation of Amounts Due to Class Members: KSA shall complete its audit and shall prepare and deliver to the Parties (through their counsel of record) and BrownGreer its recalculation of the amounts due to each Class Member under the original Settlement Order (the “Revised Calculation”) on or before November 7, 2022 at 5:00 p.m. Central Time. Thereafter, KSA shall reasonably cooperate with the Parties and BrownGreer in connection with their review of the Revised Calculation, including responding to inquiries from the Parties or BrownGreer with respect to the Revised Calculation. KSA shall, at a time to be agreed upon by KSA and the Parties, submit to the Parties a declaration certified under 735 ILCS 5/1-109 explaining the Revised Calculation, what led to the administrative error with respect to

the previous calculation, and why KSA understands that the Revised Calculation does not have the same administrative error.

9. KSA Escrow Relating to Revised Calculation: KSA shall fund a cash escrow account in the amount of \$3 million (the “Cash Escrow Account”) to secure the accuracy of the Revised Calculation. Any funds remaining in the Cash Escrow Account shall be released to KSA on December 28, 2022. The Cash Escrow Account will be subject to a separate escrow agreement among the Parties, KSA and an escrow agent, which shall set forth the instructions for the escrow agent (including, for the avoidance of doubt, all instructions relating to the release of the funds in the Cash Escrow Account). The funds in the Cash Escrow Account shall be released to the Settlement Fund solely and exclusively in the event of losses to the Settlement Class or the Settlement Fund resulting from errors, if any, in the Revised Calculation caused solely by the conduct of KSA. As non-exhaustive examples, the escrow agreement will make clear that KSA is not responsible for errors made by BrownGreer, execution errors by BrownGreer, or errors in information provided to KSA by the Parties or BrownGreer, and in no event shall any funds be released from the Cash Escrow Account in connection with any such errors. KSA and the Parties shall execute and deliver joint written instructions to the escrow agent to effect the release of any funds from the Cash Escrow Account. The Court in this matter shall have exclusive jurisdiction to resolve any disputes relating to the release of funds from the Cash Escrow Account.

10. Cleared Checks: KSA represents that, according to current estimates, before the stop check orders took effect, approximately 2,545 settlement payment checks cleared and were paid, for a total value of approximately \$1,087,127.61 (the “Cleared Checks”).¹

- a. For the Cleared Checks that are determined to have been overpayments of the corrected, total settlement distribution sums due to the applicable Class Members under the original Settlement Order (the "Corrected Amounts"), KSA will reimburse the Settlement Fund, without recourse, the entire overpaid portion, estimated to be \$365,000.00. Such reimbursement payment due to the Settlement Fund by KSA in accordance with this paragraph 10(a) shall coincide with the reimbursement payments by the Settlement Fund to KSA in connection with the Reliance Payments as determined in accordance with paragraphs 13-16, such that the Settlement Fund is made whole before any New Checks are issued.
- b. For the Cleared Checks that are determined to have been underpayments of the Corrected Amounts due to the applicable Class Members, the Class Members who received those underpayments will be issued New Checks from the Settlement Fund for the applicable underpayment amount when New Checks are distributed. KSA shall have no obligation to fund the underpayment amounts.

11. Currency Exchanges: Edelson and BrownGreer shall have an obligation to promptly send to KSA any notices or claims on the previous checks by check cashing depots, currency exchanges, and similar institutions ("Currency Exchanges"). Edelson and BrownGreer shall also keep record of all notices or claims received directly from Currency Exchanges in order to account for the payments already received when determining the New Check calculation (*i.e.*, so that no Class Members receive a double payment, that no overpaid Class Members receive a further payment, that underpaid Class Members receive an additional true-up payment,

¹ KSA has been advised that additional checks will continue to clear irrespective of the stop payment request depending on the financial institution that negotiated the check. Accordingly, the number and dollar amount of checks that have cleared is subject to change.

and that KSA receives any applicable reimbursements from the Settlement Fund). KSA will be responsible for directly paying all valid claims by Currency Exchanges with respect to previously received checks that were forwarded to KSA by Edelson or BrownGreer (or received directly by KSA from a Currency Exchange) on or before the time that the New Checks are distributed. Class Members who had cashed previously issued checks at Currency Exchanges shall receive a New Check only if the check they cashed was an underpayment. For the avoidance of doubt, if a Class Member receives an underpayment, that Class Member will receive only a New Check from the Settlement Fund in the amount of the underpayment. If a Class Member received an overpayment, the Class Member will receive no New Check. And KSA will be reimbursed by the Settlement Fund for all payments made under this paragraph in the same manner as provided by Paragraphs 13-16, so long as KSA provides proof of the claim (if not already received directly by Edelson and/or BrownGreer) and payment. To be clear, KSA is not, at this point, agreeing to pay any Currency Exchanges for claims made or forwarded after the New Checks are distributed. To the extent that the Parties or KSA receive claims from Currency Exchanges after the New Checks are distributed, the Parties shall meet and confer in good faith to resolve those claims, if any.

12. Banking Fees: KSA shall fully reimburse, without recourse, any Class Members who incurred nonsufficient funds, overdraft, bank finance, or returned check fees (the "Bank Fees") as a result of having received and deposited a settlement payment that was the subject of a stop payment order by KSA. On a periodic basis to be agreed upon, Edelson and/or BrownGreer shall advise KSA by email of the Bank Fees, by Class Member, and provide to KSA proof of the Bank Fees. For the avoidance of doubt, proof may include, but is not limited to, a cell phone screen shot of the fee or other minimal proof demonstrating that a Class Member incurred a

recoverable Bank Fee (and the basic proof documents may be redacted to the extent necessary to protect privacy and/or privilege concerns). KSA will then, within 2 business days, issue a wire transfer for aggregated Bank Fee amounts to Edelson or BrownGreer, as directed by Edelson, for reimbursement to the applicable Class Members.

13. Reliance Payments: Edelson has advised that certain Class Members spent all or some portion of the amount represented in the original settlement checks they received, which resulted in their bank accounts being overdrawn as a result of the cancellation of such checks. For only those Class Members that provide proof of an overdrawn bank account resulting from a cancelled settlement check, KSA (through a funding mechanism to be agreed by the Parties and KSA) will advance money ("Reliance Payments") to those Class Members according to the following schedule:

- a. Original settlement check \$350 or less: amount of the original check;
- b. Original settlement check above \$350 but below \$467: \$350;
- c. Original settlement check \$467 or greater: 75% of the original settlement check.

Reliance Payments are subject to subsequent offsets and credits to KSA as set forth in Paragraphs 14-16, below.

14. To allow BrownGreer to provide Reliance Payments to the Class Members, KSA agrees to advance \$300,000 to create a fund from which Reliance Payments will be drawn (the "Reliance Payment Fund"). KSA permits BrownGreer to make Reliance Payments to Class Members from the Reliance Payment Fund without waiting for KSA to approve any individual payment; however, BrownGreer must collect proof and submit such proof of eligible payments to KSA before the Reliance Payment Fund is replenished, if replenishment must occur. KSA will reasonably replenish the Reliance Payment Fund to the extent necessary to permit BrownGreer

to continue releasing Reliance Payments promptly. One week after the New Checks are distributed, any remainder in the Reliance Payment Fund will be provided to KSA.

15. KSA understands that there may be Class Members who reasonably relied on the amount of the check but whose situations do not precisely fall under the criteria described above. In the event any such individuals are identified, KSA and Edelson will meet and confer regarding the appropriate relief, if any.

16. Every Tuesday and Friday, Edelson or BrownGreer shall provide KSA and Defendants with an updated spreadsheet that includes the Class Members that are to receive, or have received, Reliance Payments from KSA. The Settlement Fund will reimburse KSA for each Reliance Payment up to the Corrected Amount due to the applicable Class Member who received a Reliance Payment, as set forth below in this paragraph.

a. If KSA makes a Reliance Payment that is ultimately determined to be less than a Class Member's Corrected Amount, KSA will be reimbursed from the Settlement Fund for such Reliance Payment, and the additional amount owed to the Class Member (*i.e.*, the Corrected Amount minus the Reliance Payment) would be paid to the Class Member out of the Settlement Fund in a New Check.

b. If KSA makes a Reliance Payment that is ultimately determined to be more than a Class Member's Corrected Amount, the Settlement Fund will reimburse KSA for only the Corrected Amount, and KSA will be responsible for the amount of the Reliance Payment that exceeded the Corrected Amount.

In advance of New Checks being issued by the Settlement Fund to Class Members that received Reliance Payments, the Parties and BrownGreer shall provide KSA with the following information with respect to each Class Member that received a Reliance Payment: (i) the amount

of the Reliance Payment paid to such Class Member, (ii) the Corrected Amount for such Class Member, (iii) the amount of the New Check due to such Class Member from the Settlement Fund, if any, and (iv) the reimbursement amount due to KSA in connection with the Reliance Payment that was paid to such Class Member, if any, in each case, in accordance with the terms of this paragraph 16. KSA will have the opportunity to review such information and the Parties and BrownGreer will consider, in good faith, any appropriate changes proposed by KSA. If there are any disputes between KSA and the Parties with respect to such information, they shall present the issue to the Court for resolution. Once all amounts are finalized, any New Checks to be issued to the Class Members who received Reliance Payments and any reimbursement payments due to KSA in connection with the Reliance Payments shall be prepared and delivered contemporaneously by the Settlement Fund.

17. Costs of BrownGreer: KSA waives all outstanding invoice amounts, which currently total \$69,554.62, to be put towards the costs of BrownGreer. KSA will, also, immediately wire \$100,000 to be put towards the costs of BrownGreer, which advance will be utilized after exhaustion of the waived invoice amount. In addition, KSA and the Parties shall meet and confer regarding the actual costs of the BrownGreer that relate to KSA's issuance of the original cancelled checks, and shall agree upon either a return of a portion of the advance to KSA or additional reimbursement of applicable costs of BrownGreer by KSA. If KSA and the Parties are unable to reach an agreement regarding the costs of BrownGreer credited to or reimbursable by KSA, if any, they shall present the issue to the Court for resolution.

18. Edelson Attorneys' Fees and Costs: KSA agrees to pay the reasonable, non-duplicative attorneys' fees and costs of Settlement Class Counsel relating solely to the stop check order and the replacement of KSA as Settlement Administrator, including the reprocessing of

settlement payments and the handling of claims for Reliance Payments and Bank Fees associated with the stop check order, in an amount to be agreed upon by KSA and Edelson or decided by the Court. KSA shall not be responsible for any of the fees of the Defendants' counsel.

19. Reservation of rights: With the exception of all of the above paragraphs, the parties reserve all rights, claims, and defenses.

SO STIPULATED.

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

Dated: November 1, 2022

By: /s/ Michael Ovca
Settlement Class Counsel

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

Dated: November 1, 2022

By: /s/ William Andrichik
One of Defendants' Counsel

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Dated: November 1, 2022

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SO ORDERED.

Date: 11-2-2022



Judge Michael T. Mullen

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Circuit Court - 2084

HON. MICHAEL T. MULLEN

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