

## For-Profit College Co. To Pay \$96M In Recruitment FCA Case

By **Matt Fair**

Law360, Philadelphia (November 16, 2015, 2:03 PM ET) -- Education Management Corp. has agreed to shell out nearly \$96 million to settle a series of False Claims Act cases accusing the for-profit college company of reaping billions worth of federal and state education funds by using improper incentives to recruit new students.

The Obama administration has reached a \$95.5 million settlement with Education Management Corp., which operates the Art Institute of Philadelphia. (Credit: AP)



The \$95.5 million deal announced on Monday ends four cases — three in Pennsylvania and one in Tennessee — over allegations that the Pittsburgh-based EDMC violated the FCA by falsely certifying that it was in compliance with federal rules barring schools from paying recruiters based on their success in enrolling students.

Attorneys involved in the case say it is the largest settlement in U.S. history for an FCA case involving the Department of Education.

“This historic resolution exemplifies the Justice Department’s deep commitment to protecting precious public resources, to defending American consumers, and to standing up for those who are vulnerable to mistreatment, abuse, and exploitation,” Attorney General Loretta Lynch said in a statement. “Operating essentially as a recruitment mill, EDMC’s actions were not only a violation of federal law but also a violation of the trust placed in them by their students — including veterans and working parents — all at taxpayer expense.”

The litigation dates back to 2007 when a pair of ex-EDMC admissions officers accused the company of implementing a compensation plan that adjusted salaries based on how many students they enrolled.

While such compensation plans are specifically barred by the Higher Education Act and several parallel state laws, the government said that EDMC falsely certified that it was in compliance.

The aggressive enrollment strategy, the whistleblowers claimed, allowed EDMC to receive more than \$11 billion in federal and state funds for financial aid programs.

Additional FCA suits were filed in 2010, 2011, and 2012, according to court records. The government intervened in the initial case in 2011.

“We’re very pleased that EDMC has been called to account for some pretty sordid conduct that cost taxpayers billions of dollars while victimizing untold numbers of students,” Harry Litman, an attorney with the Litman Law Firm in Pittsburgh who is representing the whistleblowers in the initial case, said in a statement.

The deal unveiled on Monday also includes consent agreement with state attorneys general aimed at providing prospective students with greater transparency.

“When we started our work together, the attorneys general had many concerns about the ways that some higher education providers recruited students. EDMC wanted to take the lead in developing the best ways to address each one of these concerns, and we have done so,” EDMC President and CEO Mark A. McEachen said in a statement. “EDMC is proud to have worked closely with the state attorneys general to produce a new, one-page, easy-to-read disclosure that provides important information for students as they consider their higher education options at one of our schools.”

He added that he was pleased to have resolved the cases, but that he continued to believe the claims against the company were without merit.

“Putting these matters behind us returns our focus to education students,” he said.

The cases were handled for the government by Michael Comber, Christy Wiegand, Paul Skirtich, Colin Callahan, Christopher Sabis, and Jay Majors.

The relators were represented by Harry Litman of the Litman Law Firm, Stuart Rennert of McKool Smith, Thomas Farrell of Farrell & Reisinger LLC, Yale Gutnick of Strassburger McKenna Gutnick & Gefsky, and Brian Markovitz of Joseph Greenwald & Laake PA.

EDMC is represented by Laura E. Ellsworth, James M. Jones, Thomas S. Jones, Matthew R. Divelbiss and Katelyn M. Matscherz of Jones Day.

The cases are U.S. et al. v. Education Management LLC et al., case number 2:07-cv-00461, U.S. et al. v. Education Management Corp., case number 2:10-cv-00131, and U.S. et al. v. The Art Institute Online Inc. et al., case number 2:11-cv-00601, in U.S. District Court for the Western District of Pennsylvania, and U.S. et al. v. Education Management Corp., case number 3:12-cv-01008, in U.S. District Court for the Middle District of Tennessee.

--Editing by Patricia K. Cole.

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