

CFPB Reaches \$21.6 Million Settlement with Companies Facing Deception Charges Over Student Loan Debt Collection

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On September 18, 2017, the Consumer Financial Protection Bureau filed a complaint against and proposed settlement with National Collegiate Student Loan Trusts regarding student loan debt collection lawsuits. At the same time, a federal court entered a consent order against National Collegiate's debt collector, Transworld Systems, Inc., regarding related conduct.

The National Collegiate Student Loan Trusts are 15 Delaware statutory trusts that own more than 800,000 private student loans and interact with consumers only through service providers, such as Transworld. Transworld employees complete, sign, and notarize sworn legal documents for collection lawsuits brought on behalf of the trusts. Transworld employs a national network of law firms to file and prosecute collection lawsuits on behalf of the trusts in courts across the country.

The CFPB's primary accusations against National Collegiate and Transworld are that the companies committed deceptive acts or practices when they sued consumers to collect student loan debt they couldn't prove was owed and filed false and misleading affidavits in court. In support of its deception claims, the Bureau cited lack of documentation evidencing that the loans were transferred to the trusts and missing promissory notes proving the existence of the debt. The Bureau also alleged that the companies' affiants and witnesses lacked personal knowledge of the student loan records evidencing the debt in representations made in the collection actions.

In addition, the CFPB alleged that National Collegiate committed deceptive acts or practices when it filed at least 486 collection lawsuits after the applicable statute of limitations had expired. The Bureau alleged that the company represented to consumers that the trusts had a legal right to obtain judgment through its collection lawsuits, even though the statute of limitations on these loans had expired. The Bureau argued that the company's representations were material and likely to mislead consumers.

The terms of the Bureau's proposed judgment and consent order are sweeping. The proposed judgment requires National Collegiate to hire an independent auditor to review the 800,000 student loans in its portfolio. In addition to prohibiting collection actions on time-barred debt, the proposed judgment and consent order bar the companies from

attempting to collect on, or reporting negative credit information about, any loan without required documentation. National Collegiate is required to pay \$19.1 million, which includes redress to harmed consumers, disgorgement, and civil penalties, while Transworld is ordered to pay \$2.5 million in civil penalties.

This alert was prepared by Hudson Cook's Government Investigations, Examinations, and Enforcement Practice Group. For questions, please contact Lucy Morris at lmorris@hudco.com or 202.327.9710.

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