

**UNITED STATES OF AMERICA
BEFORE THE CONSUMER FINANCIAL PROTECTION BUREAU**

IN THE MATTER OF
CORINTHIAN COLLEGES, INC.

**CORINTHIAN COLLEGES, INC.'S
PETITION TO SET ASIDE OR MODIFY THE CIVIL INVESTIGATIVE DEMAND**

September 23, 2013

LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304
(202) 637-2200 (T)
(202) 637-2201 (F)

TABLE OF CONTENTS

FACTUAL BACKGROUND	2
I. THE SCHOOL.....	2
A. The School Offers Educational Opportunities to Those Who Cannot Attend Traditional Universities.....	2
B. The School Operates in a Highly Regulated Environment.....	3
C. The Credit Crisis Prompted Legislative and Regulatory Changes in the Availability of Private Education Loans.....	4
D. In Light of the Economic Crisis and the Changing Regulatory Landscape, Private Loan Options Available to the School’s Students Have Similarly Evolved	5
II. PROCEDURAL HISTORY.....	7
I. THE BREADTH AND SCOPE OF THE CID ARE IMPROPER.....	8
A. The CID Is Overbroad and Unduly Burdensome	9
1. Individual Requests Are Overbroad and Unduly Burdensome.....	9
2. Expansive Definitions and Instructions in the CID Further Broaden Its Scope.....	12
B. Section 1036 of the Consumer Financial Protection Act Is Not Retroactive	14
III. THE CID IS ULTRA VIRES BECAUSE THE ACT UNCONSTITUTIONALLY INSULATES THE BUREAU FROM POLITICAL SUPERVISION AND CONTROL.....	15
APPENDIX: GENERAL AND SPECIFIC OBJECTIONS TO CID’S DEFINITIONS, INSTRUCTIONS, AND REQUESTS	
EXHIBIT A: The Civil Investigative Demand	
EXHIBIT B: Meet and Confer Certification	
EXHIBIT C: Affidavit of Elizabeth Tetzlaff	

TABLE OF AUTHORITIES

CASES

Free Enterprise Fund v. Public Accounting Oversight Board,
130 S. Ct. 3138 (2010) 16, 17

FTC v. Invention Submission Corp.,
965 F.2d 1086 (D.C. Cir. 1992)..... 9, 14

Landgraf v. USI Film Products,
511 U.S. 244 (1994) 15

SEC v. Arthur Young & Co., 584 F.2d 1018 (2d Cir. 1978)..... 8, 14

United States v. Morton Salt,
338 U.S. 632 (1950) 8

STATUTES

12 U.S.C. § 5491(c) 16

12 U.S.C. § 5497(a) 16

12 U.S.C. § 5497(a)(2)(C) 16

12 U.S.C. § 5497(a)(4)(E)..... 16

12 U.S.C. § 5536..... 14

12 U.S.C. § 5562(f)..... 1

12 U.S.C. § 5564(d)(2) 16

20 U.S.C. § 1070..... 4

20 U.S.C. § 1094(d)(1)(D)..... 5

OTHER AUTHORITIES

74 Fed. Reg. 42,390 (Aug. 21, 2009)..... 5

74 Fed. Reg. 42,391 (Aug. 21, 2009)..... 5

75 Fed. Reg. 57,252 15

U.S. Const. art. II, § 1, cl. 1 15

U.S. Const. art. II, § 3 15

REGULATIONS

12 C.F.R. § 1070.20(c)..... 14

12 C.F.R. § 1080.5..... 7

12 C.F.R. § 1080.6(d)(1)..... 8

12 C.F.R. § 1080.6(e)..... 1

34 C.F.R. pt. 668..... 4

INTRODUCTION & SUMMARY OF PETITION

Pursuant to 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(e), Corinthian Colleges, Inc. (the “School”) hereby moves to set aside or modify the Civil Investigative Demand (“CID”) served upon the School by the Consumer Financial Protection Bureau (“Bureau”) on September 3, 2013 (the “CID,” attached as Exhibit A). The School is filing this Petition in order to preserve its rights should the Bureau seek full and complete compliance with the CID, broadly interpreted. As stated by the undersigned counsel at a meeting with Bureau staff on September 13, and in a letter to Bureau staff dated September 18, 2013, the School intends to continue its cooperation with the Bureau staff’s investigation. In that vein, the School proposes to voluntarily produce responsive documents and information in a phased approach that mitigates the burden associated with the CID while providing the Bureau with sufficient information to meet its investigative needs, thus continuing a voluntary and cooperative effort in which the School has already provided to the Bureau over 85,000 pages of documents since June 2012. On the assumption that the foregoing approach proves to be acceptable to the Bureau staff, no decision on this Petition should be required.

With respect to the Petition, and as set forth in more detail below, the School respectfully submits that the CID should be set aside or modified for two independent reasons. *First*, the CID is overbroad and unduly burdensome. It requires the School to conduct broad corporate- and campus-level searches that are prohibitively expensive, and gives the School only three weeks to do so. *Second*, because the Act provides the Director with wide-ranging authority to determine and enforce federal law without supervision from the political branches, the Bureau’s structure violates the Constitution, and the CID issued to the School is therefore *ultra vires*.

For both of these reasons, the School respectfully suggests that the Bureau (a) modify the scope of the CID to conform to the voluntary production undertaken by the School, or alternatively (b) at the conclusion of the voluntary production process currently being pursued, withdraw the CID.

FACTUAL BACKGROUND

I. THE SCHOOL

The School is one of the largest post-secondary career education companies in North America, with more than 15,000 employees and 80,000 students enrolled in more than 110 schools across 25 states and Ontario, Canada.¹ The School offers diploma and degree programs that prepare students for in-demand careers or for advancements in a variety of fields and professions.

The School operates campuses under the Everest, Heald, and WyoTech names, and prepares graduates for careers in health care, business, criminal justice, transportation technology and maintenance, construction trades, and information technology. Students can earn diplomas or degrees depending on the program they select and the length of time they devote to their studies. Careers in many of these fields are projected by the federal government to increase significantly over the next ten years, creating increased demand for the School's graduates.

A. The School Offers Educational Opportunities to Those Who Cannot Attend Traditional Universities

The School proudly serves many student that have been failed by public education at the secondary and post-secondary levels—including approximately one third (1/3) of its students who have previously attended community colleges—and are often the first in their family to

¹ These figures are greater when extended back to July 2010—the start of the period covered by the CID. At that time, the School had nearly 16,000 employees, 110,000 students, and nearly 120 schools in the U.S. and Canada.

receive a post-high school education. Many of the School's students lack independent financial resources to pay for school without financial aid. The majority of the School's students pay for their education primarily with federal student financial aid—principally Pell grants and Stafford loans. The School continues to be committed to serving these students and to ensuring they have access to the resources necessary to achieve their educational and career goals.

Everest, Heald, and WyoTech are particularly attractive options for the increasing number of high school graduates who choose not to enroll in traditional four-year universities—or are disappointed by the approach and offerings at community college—and instead opt to join the workforce or pursue post-secondary career education and training. The School's programs provide these individuals an opportunity to continue their education while developing career-specific skills that will increase their financial well-being.

B. The School Operates in a Highly Regulated Environment

Because its students receive federal financial aid, the School is subject to extensive regulation by the U.S. Department of Education (“ED”), state licensing agencies, and accrediting agencies recognized by ED. In particular, the Higher Education Act of 1965, as amended (the “HEA”), and its implementing regulations issued by ED, impose numerous standards that the School must satisfy in order to participate in the various federal financial aid programs under Title IV of the HEA. Among other things, the HEA and ED regulations require each of the School's U.S. institutions to:

- Ensure academic quality through compliance with the standards of accreditation agencies recognized by ED;
- Assist its students to maintain a rate of default on federally guaranteed loans that is below a specified rate;
- Limit the proportion of its revenue (on a cash basis) derived from Title IV programs to no more than 90 percent, with the remaining 10 percent derived from non-Title IV programs (the “90/10 Rule”);

- Comply with certain financial responsibility and administrative capability standards;
- Prohibit the payment of certain incentives to personnel engaged in student recruiting, admissions activities, or the award of financial aid; and
- Achieve prescribed completion and placement outcomes for short-term programs.

See 20 U.S.C. § 1070 *et seq.*; 34 C.F.R. pt. 668.

As detailed below, governing rules, standards, and policies of state and federal regulators frequently change, and these changes in (or new interpretations of) governing requirements have material consequences for the School's receipt of funds under Title IV programs and, as a result, the School's costs of educating students.

C. The Credit Crisis Prompted Legislative and Regulatory Changes in the Availability of Private Education Loans

Although the School's students have always relied primarily on federal student financial aid to pay for their education, before 2008 the School's students also had limited access to private education loans to make up the difference between federal aid and the cost of tuition. In many cases, students relied on the School's relationship with one of the largest student lending companies in the United States, SLM Corporation ("Sallie Mae"). This relationship was important because many other lenders refused to lend to the School's students, and students failed to qualify for private loans on their own.

However, in January 2008, Sallie Mae withdrew from the private loan market for career training education. The School's students had used these private loans to "fill the gap" between the total cost of attending school and the amount of available federal student aid, and the departure of Sallie Mae created a serious impediment to students' ability to obtain gap financing.

When Sallie Mae withdrew from making certain private student loans to students attending career schools, the School was compelled to find another private student lender to

assist students with poor or non-existent credit histories in financing their career training education. In the face of the liquidity crisis impacting credit markets at the time combined with federal legislation regarding student lending in the fall of 2007, other private lenders were also exiting the market for private student lending to career training students, which further complicated efforts by the School's students to finance their educations.

Mindful that changed economic circumstances were creating potential access and compliance issues, Congress amended the HEA through the Higher Education Opportunity Act, P.L. 110-315 (signed August 14, 2008) (the "HEOA"). For four years, from July 1, 2008 until July 1, 2012, the HEOA allowed private post-secondary schools to count the net present value of institutional loans made to their students as revenue when the loans were made (as opposed to when the loans were repaid) for purposes of the 90/10 Rule (the "Temporary HEOA Relief"). 20 U.S.C. § 1094(d)(1)(D).

To implement this provision of the HEOA, ED proposed regulations indicating that an institution could measure the net present value of its loans for purposes of the 90/10 Rule by either (1) using a complex formula incorporating repayment periods and actual loan collection rates, or (2) using fifty (50) percent of the total amount of loans it made during the fiscal year. 74 Fed. Reg. 42,390 (Aug. 21, 2009). ED explained that the 50 percent figure presented a "conservative, simple calculation" and a "fair compromise" among competing considerations. 74 Fed. Reg. 42,391 (Aug. 21, 2009).

D. In Light of the Economic Crisis and the Changing Regulatory Landscape, Private Loan Options Available to the School's Students Have Similarly Evolved

During this period of financial crisis and legal/regulatory change in 2008, the School entered into an alternative private student loan program with Genesis Lending Services, Inc. ("Genesis"). Genesis—one of the few origination and servicing companies still willing to serve

the career schools market—agreed to originate and service private student loans for the School’s students made by an unaffiliated lender. Under this Genesis program, the School paid a discount to Genesis for any loans purchased by Genesis, and also had the right and obligation to acquire the related loan (subject to certain limitations). From 2008 to late 2011, the School acquired all of the loans that were originated under this program, although Genesis continued to provide loan services. This structure was similar to the School’s prior arrangement with Sallie Mae, in that the School did not – and does not – originate or service private student loans.

While the School did not originate or service student loans pursuant to the arrangement with Genesis, it did assume the risk of default through payment of discount fees to Genesis and the subsequent purchase of the loans from Genesis. The School’s willingness to “backstop” the private student loans was the essential ingredient in the private lending process, thus allowing students to pursue their educational goals.

Overall, the agreement with Genesis provided the School’s students with access to private loans in the wake of Sallie Mae’s departure from the market. The agreement with Genesis continued in essentially the same form until 2011.

In June 2011, in anticipation of the expiration of the Temporary HEOA Relief, the School engaged American Student Financial Group LLC (“ASFG”) to provide up-front financing to students needing private loans to pursue their career education. As with the prior Genesis arrangement, ASFG, an unaffiliated lender, makes private education loans to eligible School students. These loans are then sold to Genesis, and subsequently sold to ASFG or its designee. Pursuant to a backup loan purchase agreement with ASFG, the School is generally obligated to purchase these student loans from ASFG if they become more than ninety days delinquent. As with the School’s prior arrangement with Genesis, the School pays a discount fee to ASFG in

connection with these purchases, and records the discount as a reduction to revenue.

In sum, the School's non-federal student loan arrangements with both Genesis and ASFG were implemented out of necessity in order to continue serving students in a manner consistent with the School's mission, and to comply with federal law and regulations. Without these programs, many of the School's students simply could not pursue higher education.

II. PROCEDURAL HISTORY

On September 3, 2013, the Bureau issued the CID to the School.² The CID states a broad purpose of the investigation:

[T]o determine whether a for-profit post-secondary company, student loan origination and servicing providers, or other unnamed persons have engaged or are engaging in unlawful acts or practices relating to the advertising, marketing, or origination of private student loans in violation of section 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5536, the Truth in Lending Act, 15 U.S.C. § 1601 et seq., Regulation Z, 12 C.F.R. § 226, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Telemarketing Sales Rule, 16 C.F.R. § 310, and whether the Bureau action to obtain legal or equitable relief would be in the public interest.

CID at 1. Contrary to the Bureau's own regulations, the CID does not provide notice of the perceived factual basis for the Bureau's investigation. *See* 12 C.F.R. § 1080.5 ("Any person compelled to furnish documentary material, tangible things, written reports or answers to questions, oral testimony, or any combination of such material, answers, or testimony to the Bureau *shall be advised of the nature of the conduct constituting the alleged violation* that is under investigation and the provisions of law applicable to such violation.") (emphasis added).

² The CID replaced a broader CID issued to the School in April 2012. Despite filing a Petition objecting to the CID, the School produced 85,000 pages of documents in voluntary response to the CID.

Instead, the notice of purpose describes an industry-wide sweep, and fails to identify a single alleged violation specific to the School.

Further, while not as broad as the prior CID, the CID contains a number of requests that require broad searches for responsive documents that will be very expensive for the School to comply with. These requests and the burden they impose were identified in meet and confer discussions with Bureau,³ but the parties have not yet concluded an agreement regarding the scope the CID. Accordingly, the School hereby files this Petition stating its objections to the CID and to the Bureau's authority to issue it.

ARGUMENT

I. THE BREADTH AND SCOPE OF THE CID ARE IMPROPER

An agency's investigatory powers are subject to both constitutional and statutory limitations, and CIDs that are overbroad and unduly burdensome must be set aside or modified. *SEC v. Arthur Young & Co.*, 584 F.2d 1018, 1024 (2d Cir. 1978) ("The federal courts stand guard, of course, against abuses of their subpoena-enforcement processes."). As an initial matter, "a governmental investigation into corporate matters may be of such a sweeping nature and so unrelated to the matter properly under inquiry as to exceed the [agency's] investigatory power." *United States v. Morton Salt*, 338 U.S. 632, 652 (1950). Further, "[t]he Fourth Amendment requires that the subpoena be sufficiently limited in scope, relevant in purpose, and specific in directive so that compliance will not be unreasonably burdensome." *Arthur Young & Co.*, 584 F.2d at 1024 (citation omitted). Consistent with these principles, courts have held that an investigative demand is unduly burdensome and may be set aside or modified where compliance would "seriously disrupt" the recipient's normal business operations. *FTC v.*

³ The *Meet and Confer Certification* submitted pursuant to 12 C.F.R. § 1080.6(e)(1) is attached as Exhibit B.

Invention Submission Corp., 965 F.2d 1086, 1090 (D.C. Cir. 1992) (“An administrative subpoena may be deemed unduly burdensome if ‘compliance threatens to unduly disrupt or seriously hinder normal operations of a business.’”).⁴

A. The CID Is Overbroad and Unduly Burdensome

Here, the CID is overbroad and unduly burdensome, and requiring compliance with it would “seriously disrupt” the School’s normal business operations.⁵

1. Individual Requests Are Overbroad and Unduly Burdensome

The School is a very large organization. It has over 15,000 employees, over 80,000 students, and over 110 schools.⁶ Because of its size, the School creates and maintains a very large amount of data. It has approximately 40 terabytes of data on its active email servers, more than 15,000 active users, and approximately 30 terabytes of data on file servers at the headquarters-level Campus Support Center (“CSC”)—an amount that is increasing by about 100 gigabytes per month.⁷ *Affidavit of Elizabeth Tetzlaff*, ¶¶ 4, 8-10 (Exhibit C).

⁴ The CFPB has yet to publish an order granting a Petition to Set Aside as overbroad and unduly burdensome. However, in its published orders it has overruled similar objections for failing to adequately detail the burden. See *In re PHH Corp.*, 2012-MISC-PHH Corp-0001 (Sept. 20, 2012), available at http://files.consumerfinance.gov/f/201209_cfpb_setaside_phhcorp_0001.pdf. By contrast, this Petition provides abundant support for, and extensive detail supporting, the School’s claim of overbreadth and undue burden. See generally *Affidavit of Elizabeth Tetzlaff* (Exhibit C).

⁵ General and specific objections to the definitions, instructions, and individual requests in the CID are contained in the attached Appendix, and are hereby incorporated by reference into this Petition.

⁶ These figures are greater when extended back to July 2010—the start of the period covered by the CID. At that time, the School had nearly 16,000 employees, 110,000 students, and nearly 120 schools in the U.S. and Canada.

⁷ The School does not have a document management system. Accordingly, ESI on its file servers is unstructured—that is, it consists of loose files stored in file folders on shared drives (S:) and individual-user network drives (U:). Local data on the C-drive of individual machines is not on the network and is therefore backed up locally. *Affidavit of Elizabeth Tetzlaff*, ¶ 17 (Exhibit C).

A number of the requests in the CID could be construed to require the School to search for responsive materials across all of its locations and network data. For example:

- Request 3: All emails, reports, presentations, meeting minutes, and agendas concerning collection activities, including results and performance of those activities, related to the Genesis loan program.
- Request 4: All presentations, reports, emails, memoranda, summaries, training manuals, policies, and procedures relating to the Genesis loan program provided or sent to Corinthian staff, including admissions representatives, student finance planners, student finance supervisors, or student finance coordinators.
- Request 16: All reports, meeting minutes, agendas, and presentations relating to any meetings held with Corinthian's staff, employees or contractors concerning the Genesis loan program.
- Request 21: All analyses, reports, strategic plans, summaries, or presentations relating to Corinthian's performance (on an individual employee, division, office, sub-unit, campus, region, or corporate-wide level) in resolving past due account balances on Genesis loans.

The Genesis loan program is the only private loan program available to the School's students, and is offered at all of the School's campuses. Because of this, email and other documents relating to the Genesis loan program are likely to be found not only at the CSC, but also at all of the School's campuses—and in several departments, including admissions and student financial services. Accordingly, to comply with the above requests, the School would need to conduct a search for responsive materials at the corporate level and at all of its individual campuses. Other requests, which seek all documents related to “complaints or grievances,”⁸ to “surveys issued to students or prospective students,”⁹ or all “guidance” provided to admissions and financial aid employees¹⁰ also would require broad headquarters- and campus-level searches.

⁸ Document Requests 12-15.

⁹ Document Requests 17-18.

¹⁰ Document Requests 9-10, 19-20.

Conducting broad searches of headquarters- and campus-level data would be a very time-consuming and expensive task. The School does not have a document management system, and does not have the ability to conduct network-wide term searches (e.g., for the term “Genesis” or “complaint”) of either its email or file servers.¹¹ To conduct such a search, the School would need to retain an e-discovery vendor to collect all potentially responsive data from its servers and individual users, export it, index it to make it searchable, and then run term searches. *Affidavit of Elizabeth Tetzlaff*, ¶ 18 (Exhibit C).

Vendors charge for these services based on the amount of data to be collected, indexed, and searched. So the greater the amount of data that must be searched, the greater cost to the School to make the production, even if the production itself is ultimately small. Consilio, a vendor the School has used in the past, estimates that collection of 35-45 terabytes of data from approximately 100 servers would cost approximately \$319,500, plus \$35,000 in associated travel and media costs. Initial indexing (to enable term searching) of that amount of data would cost \$3.5 million to \$6.75 million. Performing searches for particular terms/phrases across a database of ESI costs approximately \$295/hour. Any documents responsive to the search terms would then need to be fully processed at a price of \$500/GB. Assuming a responsive set of documents is 10% of the total volume (which is a low estimate in light of the volume of documents with “Genesis” contained in them), processing would cost approximately \$1.75 to \$2.25 million. *Affidavit of Elizabeth Tetzlaff*, ¶ 19 (Exhibit C).

After processing, attorneys would need to perform a manual review of the responsive set of documents to confirm responsiveness, and to identify documents protected by privilege or that contain information protected by privacy laws such as the Family Educational Rights and

¹¹ The School also does not have an enterprise document hold solution that could be used to facilitate collection and/or searching.

Privacy Act (“FERPA”). 20 U.S.C. § 1232g. For budgeting purposes, we estimate attorneys conduct manual document review at a rate of approximately 100-150 documents per hour—time that is billed hourly. In addition, privileged documents must be logged, *see* CID section II.D, and documents containing information protected by FERPA would either need to be redacted, or the School would be required to prepare and issue FERPA notices to each affected student. For a large document set of responsive documents (which is inevitable, given the scope of the requests), each of these steps would require hundreds of hours of attorney time, and therefore add to the burden posed by the CID.

The collective costs of responding to the CID as written would be prohibitive for the School. Further, unlike the Director’s decision in *In re PHH Corp.*, 2012-MISC-PHH Corp-0001 (Sept. 20, 2012), here the School has extensively detailed the logistical and financial burdens that compliance with the CID would pose in a sworn affidavit from an officer in the School’s corporate IT group. *See generally Affidavit of Elizabeth Tetzlaff* (Exhibit C). Accordingly, the School has shown the burden compliance would pose and the CID should be modified to reduce the cost of compliance or set aside entirely.

2. Expansive Definitions and Instructions in the CID Further Broaden Its Scope.

The CID’s Definitions define core terms, such as “Corinthian,” “Document,” “Electronically Stored Information,” and “Referring to’ or ‘relating to” in a broad manner that significantly expands the scope of the requests. For example, the term “Corinthian” is defined to include not only the School and its personnel, but also its “agents, representatives, consultants, attorneys, accountants, independent contractors, and other persons working for or on behalf of the foregoing.” Section I.E. of the CID. Thus, these requests call for information not just from

the Schools, but also from all of the independent contractors, law firms, accounting firms, and consulting firms working for the School.

The CID's Instructions also impose burdensome requirements upon the School. For example, the "Scope of Search" instruction requires a search of documents in the hands of third parties, "including, but not limited to, documents in the possession, custody or control or your attorneys, accountants, [and] other agents or consultants." CID section II.I. In addition, the CID instructs the School to "indicate, for each document submitted, each request to which the document is responsive." CID section II.K. In view of the scope of the search required, the number of requests (some of which overlap), and the broad definitions in the CID, requiring the School to make and document a responsiveness determination as to each request for every single one of the thousands of responsive documents would be extremely burdensome.

3. The CID Provides Insufficient Time to Respond

The burden imposed by the CID is compounded by the fact that it allows only three weeks to respond. Three weeks to respond to requests of this number and scope is simply insufficient: document collection alone is likely to take months, and—given the likely number of responsive documents—document review in preparation for production is likely to take even longer. For example:

- Documents must be reviewed for privilege, work product protection, and other applicable privileges, such as the self-critical evaluation privilege. The consequence of producing privileged material is waiver. *Permian Corp. v. United States*, 665 F.2d 1214, 1221-22 (D.C. Cir. 1981).
- Documents must be reviewed for trade secrets and other confidential business information. The School has invested substantial sums in its proprietary training and marketing materials, as well as business plans and financial information, and operates in a very competitive industry. Thus, disclosure of confidential business information could cause it substantial injury. While Bureau regulations do provide certain limited protection for such materials, these regulations and the CID require such information be marked confidential "at the time of submission or at a reasonable time thereafter." 12

C.F.R. § 1070.20(c). Documents must also be reviewed for confidential student information subject to FERPA, and redacted prior to production.

Because three weeks is insufficient time to collect and review responsive documents in preparation for production, the CID should be set aside or modified. *Arthur Young & Co.*, 584 F.2d at 1024 (“[T]he gist of the protection is in the requirement, expressed in terms, that the disclosure sought shall not be unreasonable.”). Requiring the School to comply with the CID as written would more than *threaten* to unduly disrupt its normal operations; it would cause a significant and prolonged disruption. *See generally Affidavit of Elizabeth Tetzlaff* (Exhibit C); *cf. FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1090 (D.C. Cir. 1992) (“An administrative subpoena may be deemed unduly burdensome if ‘compliance threatens to unduly disrupt or seriously hinder normal operations of a business.’”).

B. Section 1036 of the Consumer Financial Protection Act Is Not Retroactive

The CID states that it is investigating, among other things, potential violations of 12 U.S.C. § 5536 (Section 1036 of Dodd-Frank, hereinafter referred to as “Section 1036”).¹² Section 1036 did not take effect until July 21, 2011,¹³ yet the CID requests documents and information from July 2010 to the present. Thus, the CID requests a year of materials from before Section 1036 became effective. The Bureau could not sanction the School for violations

¹² The CID also contends it is investigating violations of “the Truth in Lending Act, 15 U.S.C. § 1601 et seq., Regulation Z, 12 C.F.R. § 226, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Telemarketing Sales Rule, 16 C.F.R. § 310,” statutes that were in effect throughout the relevant period. However, these narrow statutes do not authorize the CID’s sweeping intrusion into the School’s business practices—certainly not prior to the effective date of the Consumer Financial Protection Act and not without identification of the perceived factual basis for the Bureau’s investigation.

¹³ Section 1036 is located in Subtitle C of the Consumer Financial Protection Act of 2010 (the “Act”). Section 1037 provides that Subtitle C “shall take effect on the designated transfer date.” The designated transfer date was July 21, 2011. *See* 75 Fed. Reg. 57,252.

prior to its effective date—or therefore legitimately investigate it for any such alleged violations—unless Section 1036 is retroactive. But it plainly is not.

Section 1036 is located in Subtitle C of the Consumer Financial Protection Act of 2010 (the “Act”). Section 1037 provides that Subtitle C “shall take effect on the designated transfer date.” The designated transfer date was July 21, 2011. *See* 75 Fed. Reg. 57,252. Therefore, the prohibitions set forth in Section 1036 did not take effect until July 21, 2011 and do not apply to conduct that took place prior to that date.

Because the text of the statute does not clearly state that the Act applies to conduct that took place prior to its effective date, that is the end of the inquiry. *See Landgraf v. USI Film Products*, 511 U.S. 244, 280 (1994). In any case, nothing in the Act could overcome the longstanding presumption against retroactivity. *See id.* at 265-73. Section 1036 would have “retroactive effect” under the Court’s decision in *Landgraf* because it would “impose new duties with respect to transactions already completed” and “increase a party’s liability for past conduct.” *Id.* at 280. Accordingly, under the Court’s clear command in *Landgraf*, “absent clear congressional intent favoring” retroactivity, Section 1036 may not be applied retroactively. As already noted, the only clear congressional intent is one *against* retroactivity, not for it. *See* Section 1037 (“This subtitle [C] shall take effect on the designated transfer date.”). Thus, to the extent the CID seeks to investigate conduct that allegedly violates the Act that occurred prior to its effective date, the CID is overbroad and should be modified.

III. THE CID IS *ULTRA VIRES* BECAUSE THE ACT UNCONSTITUTIONALLY INSULATES THE BUREAU FROM POLITICAL SUPERVISION AND CONTROL

The Constitution vests the executive power in the President and directs that the President “tak[e] care that the laws be faithfully executed.” U.S. Const. art. II, § 1, cl. 1; *id.* § 3. As the Supreme Court has repeatedly emphasized, this means that the President must have the ability to

oversee Executive Branch officials and hold them accountable. *See, e.g., Free Enterprise Fund v. Public Accounting Oversight Board*, 130 S. Ct. 3138, 3152-61 (2010) (invalidating statutory restriction on removal of members of Public Accounting Oversight Board). The President lacks such authority over the Bureau and its Director and top officials.

For example, the Act grants the Director a five-year term and makes him removable only for cause. 12 U.S.C. § 5491(c). The President also lacks authority over the Bureau's budget: the Act allows the Director to force the Federal Reserve to provide him with up to 12 percent of the Federal Reserve's own budget for use by the Bureau. 12 U.S.C. § 5497(a). The Act also indicates that the Director is not required to consult with the President's budget director or obtain his approval for the Bureau's budget. 12 U.S.C. § 5497(a)(4)(E). It further makes clear that the Bureau may litigate on behalf of the United States without oversight from the Justice Department, and it strongly implies that it may advance interpretations of federal consumer financial law that depart from those of the President. 12 U.S.C. § 5564(d)(2).

The Act also insulates the Bureau from one of Congress's primary mechanisms for meaningful oversight—its power of the purse. As noted, the Director may unilaterally claim up to 12 percent of the Federal Reserve's own budget, and may do so without seeking congressional approval. 12 U.S.C. § 5497(a). Indeed, the Act specifically provides that “the funds derived from the Federal Reserve System . . . shall not be subject to review by the Committees on Appropriations of the House of Representatives and the Senate.” 12 U.S.C. § 5497(a)(2)(C).

In addition, such a lack of political oversight is further exacerbated by the fact that the Bureau, unlike most other agencies that enjoy comparable power and authority, is led by a single Director rather than a multimember commission. Accordingly, there is no internal check or

moderation on the Director’s decisionmaking process—a process which is already insulated from Presidential oversight by the lack of “at will” removal.

Taken as a whole, the restrictions on the political branches’ authority over activities conducted by the Bureau appear to be unprecedented, and they go well beyond anything the Supreme Court has ever upheld before. As the Supreme Court observed in *Free Enterprise Fund*, “[p]erhaps the most telling indication of [a] severe constitutional problem . . . is the lack of historical precedent.” 130 S. Ct. at 3159 (internal quotation marks omitted). Because the Act provides the Director with wide-ranging authority to make and enforce federal law without supervision from the political branches, the Bureau’s structure violates the Constitution. The CID issued by the Director and Bureau to the School is therefore *ultra vires*.

September 23, 2013

Respectfully submitted,

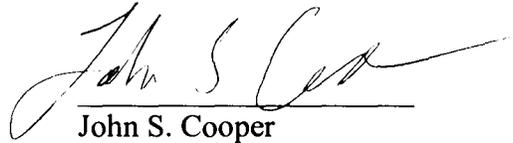


Peter L. Winik
Alice S. Fisher
Gregory G. Garre
John S. Cooper
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304
(202) 637-2200 (T)
(202) 637-2201 (F)

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of September, 2013, pursuant to 12 C.F.R. 1080.6(e), I caused the foregoing Petition to Set Aside or Modify the Civil Investigative Demand to be served via email and hand delivery upon the Executive Secretary of the Bureau and the Assistant Director for the Office Enforcement, with copies via email to the Office of Enforcement and enforcement attorneys Rina Tucker Harris, Ben Konop, and Chandana Kolavala.

Date: September 23, 2013

A handwritten signature in black ink, appearing to read "John S. Cooper", written over a horizontal line.

John S. Cooper
Latham & Watkins LLP

APPENDIX

**GENERAL AND SPECIFIC OBJECTIONS
TO CID'S DEFINITIONS, INSTRUCTIONS, AND REQUESTS**

GENERAL & SPECIFIC OBJECTIONS TO THE REQUESTS

General Objections

Corinthian incorporates by reference the arguments made in its Petition to Modify or Set Aside the CID, and makes the following general objections to the CID and the interrogatories, document requests, requests for written reports, and definitions and instructions set forth therein (collectively, the "Requests"). Corinthian incorporates these General Objections by reference into each and every Specific Objection stated below.

1. Corinthian objects to the Requests to the extent they are overbroad, unduly burdensome, not reasonably limited in time or scope, and/or not relevant to the subject matter of the Bureau's investigation.
2. Corinthian objects to the Requests to the extent they are vague, ambiguous, or argumentative.
3. Corinthian objects to the Requests because, by specifying a return date three weeks from the date of service, the CID fails to provide a sufficient time for Corinthian to prepare responses and collect potentially responsive material and information.
4. Corinthian objects to the Requests to the extent they call for a legal conclusion or call for application of law to any fact related to the subject matter of this investigation.
5. Corinthian objects to the Requests to the extent they seek information not in Corinthian's possession, custody, or control, and/or that is not reasonably accessible to Corinthian.
6. Corinthian objects to the Requests to the extent they seek documents and/or information that is publicly available or that can be obtained from sources that are more convenient, less burdensome, or less expensive.
7. Corinthian objects to the Requests to the extent they seek disclosure or production of documents or information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege, immunity, or legal obligation to maintain confidentiality. Inadvertent production of any such document or information shall not constitute a waiver of any privilege, immunity, or limitation on disclosure, with respect to information produced or the subject matter thereof, or a waiver of Corinthian's right to object to the use of any such information.
8. Corinthian objects to the Requests to the extent they seek disclosure or production of documents or information that contain proprietary materials or trade secrets, or student education records subject to the Family Educational Rights and Privacy Act, 20 U.S. C. § 1232g; 34 C.F.R. pt. 99 ("FERPA"), without appropriate safeguards.

9. No incidental or implied admissions are intended by the responses herein. Failure to object to a particular Request or willingness to produce responsive documents pursuant to any such Request is not, and shall not be construed as, an admission to the relevance or admissibility of any such document or category of documents; it does not constitute a representation that any such documents in fact exist or that the purported factual premise for any Request is valid or accurate; nor does it serve as a concession that the CID is validly issued or that the Bureau has the authority to make such Requests of Corinthian. Rather, any response that states that document will be produced is to be construed as relating only to responsive documents in Corinthian's possession, custody, or control, and that are not otherwise protected by a privilege or other immunity from disclosure. Likewise, any such statement shall not be construed as a representation that such documents exist, but should instead be considered an affirmation that responsive documents located through a reasonable search will be produced.
10. In responding to these Requests, Corinthian does not intend to waive, and hereby expressly reserves, all objections as to relevance, materiality, or admissibility of evidence in this matter and in all other matters and proceedings.
11. Corinthian objects to the CID's definition of "Corinthian" on the grounds that it is vague, overbroad, and unduly burdensome.
12. Corinthian objects to the CID's definition of "Document" on the grounds that it is vague, overbroad, and unduly burdensome.
13. Corinthian objects to the CID's definition of "Electronically Stored Information" on the grounds that it is vague, overbroad, and unduly burdensome.
14. Corinthian objects to the CID's definition of "'Referring to' or 'relating to'" on the grounds that it is vague, overbroad, and unduly burdensome.
15. Corinthian objects to the CID's definition of "Access Payment Plan" on the grounds that it is vague, overbroad, and unduly burdensome.
16. Corinthian objects to the CID's Instruction "Applicable Time Period for Responsive Materials" on the grounds that it is overbroad and unduly burdensome.
17. Corinthian objects to the CID's Instruction "Claims of Privilege" on the grounds that it is overbroad and unduly burdensome.
18. Corinthian objects to the CID's Instruction "Document Retention" on the grounds that it is overbroad and unduly burdensome.
19. Corinthian objects to the CID's Instruction "Scope of Search" on the grounds that it is overbroad and unduly burdensome.

20. Corinthian objects to the CID's Instruction "Document Identification" on the grounds that it is overbroad and unduly burdensome.

SPECIFIC OBJECTIONS

In addition to the foregoing Objections, Corinthian objects specifically to the Requests as follows.

Interrogatories

1. Identify, by title, all forms used by Corinthian and its schools for student financial planning and to describe estimated student financial aid awards. State the time period during which each form was used by Corinthian. Describe the reason for any changes made to these forms during the relevant time period.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will identify, by title, the official versions of all forms responsive to this Interrogatory issued to Corinthian's schools by Corinthian's corporate office.

2. Describe the circumstances under which Corinthian, any contractors working on its behalf, and/or Genesis would consider or classify a Genesis loan held by one of Corinthian's students to be in default.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome. In addition, Corinthian objects to this Request to the extent that it seeks information outside of Corinthian's possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will respond to this Interrogatory based on information in its possession, custody, or control.

3. Describe the circumstances under which Corinthian, any contractor working on its behalf, and/or Genesis would consider or classify a Genesis loan held by one of Corinthian's students as being in forbearance.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and

unduly burdensome. In addition, Corinthian objects to this Request to the extent that it seeks information outside of Corinthian's, possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will respond to this Interrogatory based on information in its possession, custody, or control.

4. Provide the name, position title, and time period employed for all Corinthian employees whose position involved, either directly or as a manager or supervisor, 1) informing prospective or current students about Genesis loans, or referring such students to the Genesis loan program; 2) advising prospective or current students about the Genesis loan program; 3) assisting prospective or current students in applying for a Genesis loan; or 4) collecting Genesis loan payments. This request includes, but is not limited to, student finance planners, student finance processors, and default specialists at the following Corinthian schools: Everest College, Everest University, Everest Online, and Heald College. For each individual identified, provide the location or campus where the individual worked.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce a list of the current employees in the Admissions and Student Financial Services Departments at corporate and at its individual schools.

Requests for Documents

1. All documents relating to the individuals named in Attachment A, including, but not limited to: any and all versions of the enrollment agreement, enrollment agreement addendum, student financial worksheet, estimated award letter, payment plan, student information card, entrance counseling checklist, Genesis loan preapproval notification, student finance status form, loan service report, and all documents relating to the Genesis loan program (including, but not limited to, Genesis loan agreements, disclosures, notices, complaints, and telephone call recordings of any calls that Corinthian or its contractors made or received).

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome, and to the extent which it calls for disclosure of information protected by the attorney-client privilege, the work product doctrine, and/or subject to one or more confidentiality agreements, or to the extent that it calls for confidential information in violation of the School's duties under FERPA.

Subject to its General and Specific Objections, Corinthian will search non-archived paper and electronic student files related to the students identified in Attachment A at both the corporate level and at the specific campuses these students attended. The School will produce this information only after Corinthian has complied with applicable FERPA notice requirements.

2. All versions of the student financial worksheets and estimated award letters that were used by Corinthian and its schools to calculate financial aid, grants, private loans, and payment plans that a prospective or enrolled student may need to pay for tuition and other fees for any period of enrollment in a program or classes offered by Corinthian or its schools.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce official versions of documents responsive to this Document Request that were issued to Corinthian's schools by Corinthian's corporate office.

3. All e-mails, reports, presentations, meeting minutes, and agenda concerning collection activities, including results and performance of those activities, related to the Genesis loan program.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Andy Min and Cynthia McCarty, the employees with primary responsibility for the activities described in this Request, and produce responsive documents in their custody.

4. All presentations, reports, e-mails, memoranda, summaries, training manuals, policies, and procedures relating to the Genesis loan program provided or sent to Corinthian staff, including admissions representatives, student finance planners, student finance supervisors, and student finance coordinators.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Andy Min and Cynthia McCarty, the employees with primary responsibility for the activities described in this Request, and produce responsive documents in their custody.

5. All reports, summaries, presentations, memoranda, correspondence, and emails provided to or issued by or from Corinthian's Board of Directors, and any committees or members of the Board of Directors, relating to:
 - (a) delinquencies, charge-offs, and/or defaults on a Genesis loan by current and/or former Corinthian students;
 - (b) the amount and /or number of loans issued or originated under the Genesis loan program;
 - (c) funding reports relating to the Genesis loan program;
 - (d) demographic information relating to applicants, or current and former Corinthian students;
 - (e) demographic information relating to current and former students who received Genesis loans;
 - (f) audits or reviews conducted by Corinthian staff, contractors, consultants, or auditors.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents relating to Genesis loans and students with Genesis loans from the School's "Board book," which contains minutes and agendas from Board meetings, as well as any presentations that were distributed at Board meetings.

6. All presentations, reports, e-mails, memoranda, correspondence, and summaries referring to, or relating to, any preferred lender agreements between Corinthian and any entity.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome, and to the extent that it calls for production of documents protected by the attorney-client privilege, the work product doctrine, and/or subject to one or more confidentiality agreements.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in Corinthian's possession, custody, or control.

7. All preferred lender agreements between Corinthian and any entity.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in Corinthian's possession, custody, or control.

8. All information, policies, procedures, and instructions provided to Corinthian staff (including student finance planners and student finance supervisors) relating to Corinthian's preferred lender list for private education loans or any preferred lender list for private education loans used by Corinthian's schools.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the custody of Kim Dean, the employee with primary responsibility for these materials.

9. All scripts or guidance regarding language to be used, either for purposes of telemarketing or for in-person meetings, used by or provided to Corinthian employees or contractors in connection with attempts or efforts to recruit prospective students for any of Corinthian's schools.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the custody of Kim Dean, the employee with primary responsibility for these materials.

10. All scripts or guidance regarding language to be used, either for purposes of telemarketing or for in-person meetings, used by or provided to Corinthian employees or contractors related to discussing or describing the financial aid process or Genesis loans.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the custody of Kim Dean, the employee with primary responsibility for these materials.

11. All policies and procedures relating to compliance with the Telemarketing Sales Rule, 16 C.F.R. part 310, and the Truth in Lending Act, 15 U.S.C. 1601 et seq.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce documents responsive to this Document Request in Corinthian's possession, custody, or control.

12. All grievances and complaints from current or former students related to the Genesis Loan Program or the Access Payment Plan.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the log of student complaints maintained by the School's corporate-level Student Services Department.

13. All e-mails, correspondence, memoranda, presentations, summaries, and reports relating to any grievances or complaints from students or former students related to the Genesis Loan Program or Access Payment Plan.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome, and to the extent it calls for production of material protected by the attorney-client privilege, the work product doctrine, and/or subject to one or more confidentiality agreements.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the custody of the corporate-level Student Services Department, the department with responsibility for coordinating responses to the complaints in the student services complaint log.

14. All grievances and complaints from current employees or contractors, or former employees or contractors concerning the Genesis loan program or the Access Payment Plan.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome. Corinthian further objects to this request to the extent it seeks documents protected by the attorney-client privilege, the work product doctrine, and/or subject to one or more confidentiality agreements, and to the extent it seeks documents that are not within the School's possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will search the log of complaints submitted to the School's employee complaint hotline and produce responsive materials.

15. All e-mails, correspondence, memoranda, presentations, summaries, and reports relating to any grievances or complaints from current employees or contractors, or former employees or contractors concerning the Genesis loan program or the Access Payment Plan.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome. Corinthian further objects to this request to the extent it seeks documents protected by the attorney-client privilege, the work product doctrine, and/or subject to one or more confidentiality agreements, and to the extent it seeks documents that are not within the School's possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will produce responsive documents in the custody of the corporate-level Human Resources and Law Departments, the departments with responsibility for responding to complaints submitted to the employee hotline.

16. All reports, meeting minutes, agenda, and presentations relating to any meetings held with Corinthian's staff, employees, or contractors concerning the Genesis Loan Program.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Andy Min and Cynthia McCarty, the employees with primary responsibility for the activities described in this Request, and produce responsive documents in their custody.

17. All findings, results, reports, summaries, e-mails, presentations, and correspondence relating to any surveys issued to students or prospective students in connection with research performed by Corinthian or on Corinthian's behalf related to admissions.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Cebra Graves, the employee with primary responsibility for the surveys described in this Request, and produce responsive documents in his custody.

18. All findings, results, reports, summaries, e-mails, presentations, and correspondence relating to any surveys issued to students or prospective students concerning the loan and payment options available in connection with the Genesis Loan Program.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Cebra Graves, the employee with primary responsibility for the surveys described in this Request, and produce responsive documents in his custody.

19. All reports, policies, procedures, instructions, guidance, and training manuals provided or sent to Corinthian employees, including but not limited to employees involved directly, or as a manager or supervisor, in student finance, relating to Corinthian's efforts to collect past due account balances from students.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Kim Dean, the employee with primary responsibility for the subject matter described in this Request, and produce responsive documents in her custody.

20. All reports, policies, procedures, instructions, guidance, and training materials provided or sent to Corinthian employees, including but not limited to employees involved directly, or as a manager or supervisor, in student finance, relating to Corinthian's efforts to collect past due in-school payments on Genesis loans from students.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Kim Dean, the employee with primary responsibility for the subject matter described in this Request, and produce responsive documents in her custody.

21. All analyses, reports, strategic plans, summaries, or presentations relating to Corinthian's performance (on an individual employee, division, office, sub-unit, campus, region, or corporate-wide level) in resolving past due account balances on Genesis loans.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome.

Subject to its General and Specific Objections, Corinthian will search the non-archived electronic files of Andy Min and Cynthia McCarty, the employees with primary responsibility for the activities described in this Request, and produce responsive documents in their custody.

Written Reports

1. For all Genesis loans issued to students during each month of the applicable time period, provide the total number and dollar amount of Genesis loans issued to students, as well as the total number and dollar amount of those loans in each of the following categories as of the end of each quarter of the applicable time period: (i) the loan is in forbearance, in accordance with the definition set forth in response to Interrogatory number 3; (ii) the student is more than 1 but less than 90 days late on making a loan payment, (iii) the student is 90 or more but less than 180 days late on making a loan payment, (iv) the student is 180 or more but less than 270 days late on making a loan payment, and (v) the student is 270 or more days late on making a loan payment. Please use the template report provided as Attachment B.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome. In addition, Corinthian objects to this Request to the extent that it seeks information outside of Corinthian's possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will contact Genesis regarding the burdens associated with responding to this Request.

2. For all Genesis loans issued to students during each month of the applicable time period, provide the total number and dollar amount of Genesis loans in each of the following categories as of the end of each quarter of the applicable time period: (i) total number and dollar amount of loans issued to students not enrolled in classes at Corinthian as of that date; (ii) the student is no longer enrolled in classes at Corinthian and is more than 1 but less than 90 days late on making a loan payment, (iii) the student is no longer enrolled in classes at Corinthian and is 90 or more but less than 180 days late on making a loan payment, (iv) the student is no longer enrolled in classes at Corinthian and is 180 or more but less than 270 days late on making a loan payment, and (v) the student is no longer enrolled in classes at Corinthian and is 270 or more days late on making a loan payment. The information sought in this report is a subset of the information sought in Report Request number 1. Please use the report template provided as Attachment C.

OBJECTION:

Corinthian incorporates by reference all of its General Objections. In addition to its General Objections, Corinthian objects to this Request to the extent it is vague, overbroad, and unduly burdensome. In addition, Corinthian objects to this Request to the extent that it seeks information outside of Corinthian's possession, custody, or control.

Subject to its General and Specific Objections, Corinthian will contact Genesis regarding the burdens associated with responding to this Request.

Exhibit B

MEET-AND-CONFER CERTIFICATION

Pursuant to 12 C.F.R. § 1080.6(e)(1), I certify that counsel for Corinthian has meet and conferred with counsel for the Bureau in a good faith effort to resolve by agreement the issues raised by this Petition, as required by 12 C.F.R. § 1080.6(c), and has been unable to reach such an agreement. The following statement details “the date, time, and place of each such conference between counsel, and the names of all parties participating in each such conference.”

1. On Friday, September 13, 2013, Peter L. Winik, Alice S. Fisher, and I, all of Latham & Watkins LLP, met and conferred with Rina Tucker Harris, Benjamin Konop, Chandana Kolavala, and Claudine Brenner of the Bureau at its offices at 1700 G St., NW. Two additional Bureau employees—an e-discovery expert named Dmitri, and a forensic accountant named Ryan—also attended the meeting.
2. The meeting began at approximately 1:00 pm and lasted until approximately 2:00 pm. The parties conferred in good faith and were unable to reach agreement on the issues raised in this petition.
3. On Wednesday, September 18, 2013, I emailed to Ms. Harris, Mr. Konop, and Ms. Kolavala a letter proposing—on a request-by-request basis—an initial response to the CID by Corinthian. This letter memorialized and supplemented points raised at the September 13 meeting.
4. As of this date, we have not received a response to the September 18 letter to counsel for the Bureau.

Date: September 23, 2013

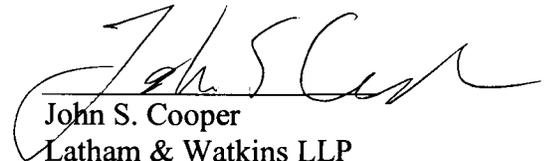

John S. Cooper
Latham & Watkins LLP

Exhibit C

**UNITED STATES OF AMERICA
BEFORE THE CONSUMER FINANCIAL PROTECTION BUREAU**

IN THE MATTER OF
CORINTHIAN COLLEGES, INC.

**AFFIDAVIT OF ELIZABETH TETZLAFF
IN SUPPORT OF PETITION OF CORINTHIAN COLLEGES, INC.**

I, Elizabeth Tetzlaff, being duly sworn, depose and state as follows:

1. I am an adult over the age of eighteen, and if called to testify in this matter, I could and would testify as follows:

2. I am the AVP, IT Infrastructure & Operations at Corinthian Colleges, Inc. ("Corinthian" or the "School"). The information set forth below is based on my personal knowledge or was provided to me by School personnel with knowledge, and is true to the best of my knowledge, information, and belief.

3. I understand that Corinthian was served with a Civil Investigative Demand (the "CID") issued by the Consumer Financial Protection Bureau, requesting a variety of documents and materials.

THE SCHOOL AND ITS INFORMATION TECHNOLOGY INFRASTRUCTURE

4. Corinthian currently has more than 15,000 employees and serves over 80,000 students enrolled in more than 110 schools across the United States and Canada.

5. The School operates three principal brands: Everest, Heald, and WyoTech, and maintains more than ninety campus and online locations in the United States. The School offers a variety of diploma programs, as well as associate's, bachelor's, and master's degrees in several different disciplines, including healthcare, business, information technology, electronics, criminal justice, trades and transportation, as well as several fields of study.

6. Corinthian maintains a vast amount of electronically stored information ("ESI"), across a variety of platforms.

7. Generally, ESI at Corinthian is maintained in a variety of geographic locations, including on a Campus Support Center ("CSC") network, on file servers related to the School's online programs in Tampa, FL, Tempe, AZ, and Colorado Springs, CO, on Xerox ACS servers

located in Texas and Oregon, and on individual computers' hard-drives. In addition, the School has over 90 campus locations in the United States, each with a local file server storing user data.

8. The School also has approximately 15,900 individual computers currently in use, and it maintains approximately 16,000 active personnel email accounts.

9. The School possesses approximately 40 terabytes of data on active email servers; approximately 35 terabytes of data at the CSC; and approximately 12 terabytes of data on campus file servers. These estimates do not include the amount of data stored on the local drives (C-drives) of individual computers.

10. I estimate that the total amount of information on the file servers at the CSC is growing at a rate of approximately 100 GB/month.

11. The types of files that contain information potentially responsive to the CID reside in several different locations. For example, corporate-level unstructured user files (network files), PSTs, Word documents, Excel, and PowerPoint files are generally maintained at the CSC;

12. Campus-level unstructured user files (network files), PSTs, Word documents, Excel, PowerPoint, and SharePoint files are maintained at many of the School's individual campuses;

13. Private student loan data and CampusVue files (CampusVue is a proprietary academic and administrative platform) are located on Xerox ACS servers located in Dallas, Texas;

14. Company, SharePoint, Human Resources, and Finance data is contained in Xerox ACS servers located in Amberglen, Oregon;

15. Data related to the School's online programs is stored on servers located in Tampa, FL, Tempe, AZ, and Colorado Springs, CO;

16. Individual user files are located on individual computers across various locations in United States.

COSTS & TIME ASSOCIATED WITH PROCESSING ESI

17. The School does not have a document management system. Accordingly, ESI on its file servers is unstructured—that is, it consists of loose files stored in file folders on shared drives (S:) and individual-user network drives (U:). Local data on the C-drive of individual machines is not on the network and is therefore backed up locally, if at all.

18. Therefore, to respond to the CID as written, the School would have to retain an independent vendor to export significant quantities of ESI from its network into a vendor-hosted database so that it could identify potentially responsive materials.

19. Based on my prior experiences working with ESI vendors, I believe the collection, processing, and review process associated with ESI is very costly. Consilio, a vendor the School has used in the past, estimates that collection of 35-45 terabytes of data from approximately 100 servers would cost approximately \$319,500, plus \$35,000 in associated travel and media costs. Initial indexing (to enable term searching) of that amount of data would cost \$3.5 million to \$6.75 million. Performing searches for particular terms/phrases across a database of ESI costs approximately \$295/hour. Any documents responsive to the search terms would then need to be fully processed at a price of \$500/GB. If we assumed a responsive set of documents was 10% of the total volume, processing would cost approximately \$1.75 to \$2.25 million.

20. If the CID calls for the production of potentially responsive ESI located on individual computers, I understand that the School would be required to collect individual computers and back up data from individual network and non-network drives. This process also entails significant additional IT time and related costs, particularly for those employees residing in one of the twenty-six states with campuses plus the many additional states where regional leaders reside. With only 900 employees at the Campus Support Center, the vast majority of the School's 15,000 employees are dispersed across the country.

21. Currently, School personnel use approximately 15,900 individual computers. For one of the approximately 900 users physically located at the CSC who has potentially responsive data on her computer (C:/ Drive), the School will need to back-up files from her computer onto the local network – and this process will take up to sixteen (16) hours. During this process, the user will not have access to her computer during this process. Moreover, due to performance and bandwidth limitations, the School can only back-up computers of only 1-2 users at a time.

22. Some users may connect to their individual computers over the CSC network, and backing up the data on their individual computer will involve other complexities. The effort itself will take up to sixteen (16) hours per user, and the back-up process must be constantly monitored. The user may have access to his computer during this time but with only limited capabilities.

23. Still other users access the CSC network through home internet connections. Backing up data from computers used by such users can take up to three (3) days and must be constantly monitored (for instance, an individual may forget and turn off his computer, requiring the School to restart the back-up process). Backing up these computers requires not only substantial time and resources, but also a great deal of logistical effort.

24. Creating back-ups for files on the network U:/ Drive may take up to two (2) hours per individual user.

25. Converting email inboxes to PST files may also take up to two (2) hours per individual user.

26. Email residing on backup media (tape), not in the employee's active email account, may be restored for e-discovery purposes at an average cost of approximately \$1,000 per day recovered.

27. Consilio, an e-discovery vendor the School has used in the past, estimates that imaging of 15,900 custodian computers could cost approximately \$11.93 million plus associated travel and media costs.

[Signature page follows]

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and correct.


Elizabeth Tetzlaff

Subscribed and sworn to before me
this ____ day of September, 2013

*please see
attached*

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], not Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California
 County of Orange

Subscribed and sworn to ~~(or affirmed)~~ before me
 on this 19th day of September, 20 13,
 by _____
Date Month Year

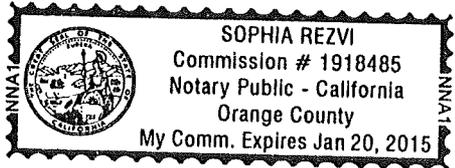
(1) Elizabeth Tetzlaff
Name of Signer

proved to me on the basis of satisfactory evidence
 to be the person who appeared before me (.) (.)

(and)
 (2) _____
Name of Signer

proved to me on the basis of satisfactory evidence
 to be the person who appeared before me.)

Signature [Signature]
Signature of Notary Public



Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: Affidavit of Elizabeth Tetzlaff

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT OF SIGNER #1	RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here	Top of thumb here
[Signature]	[Signature]