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Written Testimony of Deanne Loonin, Director of National Consumer Law Center's Student Loan Borrower Assistance Project in Response to the May 26, 2009 U.S. Department of Education Notice of Establishment of Negotiated Rulemaking Committees and Notice of Public Hearings

June 22, 2009

The following testimony is submitted on behalf of the National Consumer Law Center's low-income clients. The National Consumer Law Center (NCLC) is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys and their clients, as well as community groups and organizations that represent low-income and older individuals on consumer issues. NCLC's Student Loan Borrower Assistance Project provides information about student rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identity policy solutions to promote access to education, lessen student debt burdens and make loan repayment more manageable.[1]

I. Federal Student Assistance: Program Integrity

In order to promote educational opportunities, the government has opened up federal financial assistance program over the years to the neediest students, including many students attending vocational schools. The motivations for these policies are generally laudable. And in many cases, federal funds have given students unprecedented access to higher education.

Unfortunately, this is not the end of the story. Federal aid for education can become an insurmountable burden rather than a benefit. This is especially true in the for-profit higher education sector where all too often, schools prey on vulnerable students' dreams of betterment through education. As a result, the financial assistance that was intended to help these students does little more than bury them in debt. It is more important than ever to ensure that the dream of accessible higher education can be a reality.

Our testimony below briefly describes current problems with for-profit vocational schools and lack of regulatory oversight, followed by summaries of borrower experiences, and recommendations for change. Additional information is provided in the appendices.

[1] See the Project's web site at www.studentloanborrowerassistance.org. NCLC also publishes and annually supplements practice treatises which describe the law currently applicable to all types of consumer transactions, including *Student Loan Law* (3d ed. 2006 and Supp.).

A. Problems in the Proprietary School Sector

Problems in the for-profit higher education sector are by no means just a legacy of the past. In recent years, numerous companies have been the subject of private lawsuits and government investigations alleging marketing abuses and other serious violations.

We see the harm to students on a regular basis through our direct client representation work. Currently, we represent about 40-50 clients annually. All of these clients live in the Greater Boston area and all are eligible for free legal aid. We also consult with lawyers across the country representing borrowers, many with complaints against proprietary schools. In addition, a large percentage of the complaints we get through our Student Loan Borrower Assistance web site involve proprietary schools.

In reviewing our direct representation files from just the past year, we found that about half of our clients attended proprietary schools. Of these clients, about 2/3 failed to complete the programs. This is a diverse population including a young man in his early 20's who was led to believe that he could study a particular program at a vocational school only to find out after he enrolled that the program was no longer offered. We also represented a monolingual Spanish speaking single mom in her early 40's. She signed up for a beauty school after informing the school representatives that she spoke only Spanish because she was told that courses were offered in both Spanish and English. She found out right away that this was a lie and that the courses were offered in English only. Although she dropped out and her federal loan was cancelled, the school continued to pursue her for about $5,000 in fees. This was very stressful for a single mom trying to get by working at a school cafeteria, earning just above minimum wage with no health insurance.

Other clients included a homeless man in his mid 40's who was recruited for a pharmaceutical program and signed up because he needed a place to stay during the day when the shelter was closed. He has severe learning disabilities. Other clients had major disabilities which they revealed to school representatives, but were nevertheless pressured to sign up.

Of our clients who completed their programs, not a single person has found work in the field s/he was supposedly trained in.

The stakes are much higher in the current environment given that most of these students have not only federal student loans, but subprime private loans as well. The Project on Student Debt recently released data showing that at proprietary (for-profit) colleges and universities, the percentage of students who took out private student loans skyrocketed from 14 percent in the 2003-04 school year, to 43 percent last year.[2]

One of our clients, Zachary, is in his mid-20s and a student at Salem State College in Massachusetts. About five years ago, he saw an advertisement for a for-profit culinary school. He visited the school and was told about the "amazing" curriculum and strong job placement program. The price tag of about $35,000, they said, would be easily repaid through lucrative

[2] The Project on Student Debt, Press Release, "New Data Show Big Increases in Private Student Loan Borrowing" (April 21, 2009), available at: http://projectonstudentdebt.org/files/pub/Private_loan_data_NR.pdf.

earnings after graduation. Zachary was young and impressionable and eager to work in the culinary field, so he signed up. He found out almost immediately that the school's statements were empty promises. The teachers were inexperienced and the materials and equipment inferior. He asked about leaving and was told that he could not get a refund. He stayed and finished and was never given job placement assistance, despite his requests. He has since moved on and tried to put the experience behind him, but the loans will not go away. He thinks he will be able to mange the federal loans, but his two private loans with current interest rates of about 15% are unaffordable.

Zachary contacted other students who attended McIntosh College, the Career Education Corporation campus that he attended in New Hampshire. A partial list of these students' experiences, with names redacted, is attached at Appendix A.

The school that Zachary attended had survived for nearly 100 years before Career Education Corp. (CEC) purchased it. It closed in 2008, not long after CEC's purchase. As one former management employee of a Katharine Gibbs campus that suffered a similar fate wrote on-line: "None of this had to happen. These schools CAN be salvaged by private schools whose aim is to service the public, and not necessarily their over-stuffed pocketbooks." She wrote further that too often problems are blamed on a few disgruntled employees or students, failing to see that "...the onus has always been on the corporation, the accreditors who have turned blind eyes, and the government agencies who have sold themselves to lenders and corporate lobbyists." [3]

Current laws are inadequate to address these problems. In some cases, Congress and/or the Department of Education have created so many loopholes that the laws no longer have any teeth. Lax enforcement compounds the problem. Rules that have been significantly watered down or gutted include incentive compensation limits, default rate sanctions (through expanded appeal rights and limited definitions of default), and limits on distance education programs.

We do not assume that the current regulations are the only ways to curb abuses. However, the current practice of eliminating or gutting protections without replacing them with appropriate protections for students and taxpayers must come to an end. In addition, as discussed in detail below, there must be private enforcement rights so that borrowers who are harmed can get some measure of relief.

Key areas of concern and recommendations for reform are discussed below.

B. Recommendations to Improve Program Integrity

1. Performance Data

[3] See comments to Doug Lederman, "Tears for a For-Profit College's Demise", Inside Higher Ed (February 20, 2008), available at: http://www.insidehighered.com/news/2008/02/20/mcintosh.

Proprietary institutions of higher education are specifically required by law to provide programs of training that prepare students for "gainful employment in a recognized occupation."[4] It is appropriate and necessary to set specific standards to measure the success of these programs.

In the case of proprietary vocational schools, the Department should focus on ways to hold institutions accountable for outcomes. The key outcome to consider is whether the student was able to find a job in the occupation or field for which he was supposedly trained.

Although these outcomes are difficult to measure, there are ways to do this by a) establishing a standardized definition of job placement, b) requiring institutions to report job placement rates publicly and to prospective students, c) strengthening oversight and auditing by regulatory agencies and d) penalizing schools that fail to meet performance standards. We urge the Department to consider these issues as part of the upcoming negotiated rulemaking agenda.

Current laws do not hold institutions accountable. As part of our research for a June 2005 report, we sent testers to admissions offices at local campuses for each of the five corporations in our study, Career Education Corporation, Educational Management Corporation, Apollo Group, Corinthian Colleges and ITT Educational Services.[5] Among other results, we found that none of the admissions representatives gave official completion rate statistics, even though they are required to do so by law and even though they were specifically asked for this information. Job placement rates were equally difficult to obtain.

There are serious flaws with both the accuracy of the publicly reported information and government data. The calculation formula for completion and placement rates is flawed and subject to manipulation; too few campuses collect and report data; the information is self-reported and thus impossible to verify; and enforcement by states, the federal government and accreditation agencies is dismal.

The current messy patchwork of federal laws is inadequate to protect students and taxpayers. There are a number of regulatory requirements that require certain schools to collect and retain data on completions and job placement and in some cases to disclose information to prospective students. For example, only proprietary schools offering educational programs of at least 300 clock hours of instruction, but less than 600 hours, offered during a minimum of 10 weeks, must have a verified completion rate for those programs of at least 70% and a verified job placement rate of at least 70 % in order to participate in the federal assistance programs.[6] However, these requirements are easy to evade and rarely enforced.

The regulatory triad of the federal Department of Education, state licensing agencies, and accreditation agencies is failing to protect students. The promise of for-profit education for these students can only be fulfilled if and when the schools, accreditation agencies, and government

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[4] 34 C.F.R. §600.5(a)(5).

[5] National Consumer Law Center, "Making the Numbers Count: Why Proprietary School Data Doesn't Add Up and What Can be Done About It" (June 2005), available at: http://www.studentloanborrowerassistance.org/uploads/File/ProprietarySchoolsReport.pdf

[6] 20 U.S.C. §1088(b)(2)(A).

regulators understand and enforce the accurate measuring and reporting of school performance information.

Recommendations for reaching this goal include:

Up-Front Disclosures to Students. Before enrolling, students must be given information about:

- Recent completion rates at that campus,
- Recent job placement rates,
- Information about average salaries earned by graduates in jobs for which they were trained at the school,
- The ranges of monthly salaries earned by students who were originally scheduled at the time of enrollment to complete the course in the most recent calendar year and the number of those students in each salary range, and
- If there is state licensing or certification requirements for the particular occupation, the school must disclose those requirements and the pass rate of graduates on those licensure or certificate examinations.[7]

Standardize the Definition of "Completion" and "Job Placement". In standardizing calculation of these rates, the Department should reduce the exclusions and require schools to report the number of students placed in each exclusion category, such as numbers on active military duty or permanently and totally disabled.

Conduct Regular Audits. State and federal agencies must audit performance data for accuracy. Under current practice, schools often give unrealistic information about expected salaries after graduation. For example, one of our clients who signed up for a beauty school was given a packet of information including articles about hairdressers making $300/hour and articles about "typical" salaries for hairstylists. A few examples of the information provided in this packet are included at Appendix B. Rather than an article about Julia Roberts' hair stylist (included in the packet and at Appendix B), prospective students should be given verifiable information about the average salaries that graduates of the particular program are earning.

Penalize schools that do not meet performance standards. Among other penalties, the Department should consider the following:

- Companies with less than 75% of total, eligible campuses reporting completion rates should be placed on probation by the federal Department of Education, state agencies and accreditation agencies. During this probation period, the schools should be prohibited from making any claims about company-wide completion data. The company must also disclose to students that it cannot provide them with company-wide completion data because they are on probation with regulatory agencies.

[7] Many of these provisions were required in California Education law until this law was recently repealed. See Cal. Educ. Code §94316.10.

- Any company that reports a company wide job placement rate of over 80% for two consecutive years should automatically be audited by the federal Department of Education or appropriate state agency. A similar standard should be set for completion rates.

- Any company that reports a company wide job placement rate of 35% or less for two consecutive years should automatically be audited by the federal Department of Education or appropriate state agency. A similar standard should be set for completion rates.

Provide Public Access to Completion and Job Placement data.

Among other reforms, the Department should:

- Require NCES to collect and make available job placement as well as completion data. Schools must substantiate placement rates, as required in the regulations, including statements from employers and income tax forms as long as student privacy is adequately respected. These records must be retained for a reasonable period of time.

- Performance data must be updated and include accurate completion and job placement rates. Students and the public should also be made aware of these resources, such as the NCES College Navigator site.

- States must also be required to provide links to the federal data to any member of the public who is interested in examining the performance of proprietary institutions.

- As the GAO recommended in 1996, require accrediting agencies to develop and make public uniform, performance-based consumer protection standards, including but not limited to job placement and completion rates.[8]

2. Limits on Incentive Compensation

The constant pressure to grow and show profits to investors has led many institutions to pressure staff to enroll as many students as possible. A 2003 Department of Education program review provides a detailed look at the University of Phoenix marketing structure. In this review, the Department found extensive use of incentive compensation based on enrollments for those involved in recruiting or admission activities, in violation of the Higher Education Act

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[8] U.S. General Accounting Office, "Department of Education: Status of Actions to Improve the Management of Student Financial Aid," GAO/HEHS-96-143 (July 1996).

requirements.[9] The Department ultimately reached a $9.8 million settlement with the Apollo Group, with no admission of wrongdoing from the company.[10]

In one lawsuit against ITT, former employees complained that ITT set unrealistic goals for enrollment, retention, and placement and exerted enormous pressure to enroll students.[11] The complaint quotes a former admissions representative, characterizing the job as similar to selling "used cars."

In 1992, Congress added an important provision to the HEA prohibiting institutions from giving "any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments" to admissions officers. The Department later gutted the incentive compensation limits, creating safe harbors that took the teeth out of the statutory prohibition. The Department took this action over the objections of a panel of negotiators during negotiated rulemaking. Further, there is nothing in the statute or legislative history suggesting that Congress intended the Department to create these broad safe harbors.

We recommend that the Department revisit this issue to conform regulations once again to the statutory language. The statute provides clearly at 20 U.S.C. §1094(a)(20) that: "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."

The underlying principle is that any attempt to tie staff compensation to the number of students enrolled is an inherent conflict of interest. The safe harbors undermine this basic principle. For example, one safe harbor allows incentive compensation for recruitment of students who enroll only in non-Title IV programs.[12] Ye the statute does not distinguish between recruitment for Title IV and non-Title IV programs. Rather, it uses the generic term "financial aid." This is particularly critical due to the huge growth in private student loan programs. Another provision allows commissions for internet-based recruitment even though the statute makes no distinction at all between commissions for on-line vs. off-line recruitment activities.[13]

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[9] U.S. Department of Education, "Student Financial Assistance Program Review Report", PRCN 200340922254, University of Phoenix, Site visit 8/18/03-8/22/03.

[10] For additional information and commentary about this issue, see Stephen Burd, "More Scrutiny Needed of the University of Phoenix's Recruiting Practices" New America (February 19, 2009), available at: http://www.newamerica.net/blog/higher-ed-watch/2009/more-scrutiny-needed-university-phoenix-10193.

[11] City of Austin Police Retirement System v. ITT Educational Services, Civ. Action # 1:04-cv-00380 (S.D. Ind. Complaint filed February 26, 2004).

[12] 34 C.F.R. §668.14(b)(22)(ii)(B).

[13] 34 C.F.R. §668.14(b)(22)(ii)(J).

3. **Develop A Meaningful Default Rate System**

Persistently high default rates signal very serious problems at an institution. In some cases, defaults may be unrelated to the institution. A borrower may run into health or other circumstances after graduation that leads her to default. However, as many private lenders have learned recently, low completion and job placement rates are very clearly correlated with default. Key Corp., for example, warned investors in many pooling and servicing agreements that default rates for student loans made to students attending proprietary and vocational schools are significantly higher, except for a few selected, accredited proprietary schools which grant degrees.[14] Sallie Mae and others have attributed much of the poor performance of their private student loans to their "non-traditional" loan portfolio. These loans are described as loans to borrowers that are expected to have a high default rate due to numerous factors including having a lower tier credit rating or low program completion and graduation rates usually at "non-traditional schools." Even where the borrower is expected to graduate, non-traditional loans tend to go to borrowers with low expected incomes relative to the cost of attendance.[15] Overall, studies show that leaving school is a significant factor in predicting default.[16]

Setting an accurate cohort default rate and penalizing schools with consistently high rates is a key to accountability in this sector. The current system, however, is too weak to capture offenders.

The current cohort default rate calculation fails to capture the true scope of student loan defaults. Under current rules, the numerator of the cohort default calculation includes all loans that enter repayment in the cohort fiscal year and go into default by the end of the following year. The denominator includes all loans that enter repayment in the cohort fiscal year. The denominator includes loans that are in deferment or forbearance status even though borrowers with these loans are not in repayment status and the loans are not subject to a risk of default during that time period. Thus, the number of loans in default is divided by a number that is larger than the total number of loans in repayment. This skews the cohort default rate. Further distorting the statistics, loans that are in deferment or forbearance in a particular cohort year are not placed in subsequent cohorts and are never included in calculations of a school's default rate even if the loans go into default after the deferment or forbearance period is over.

Another important way in which schools may evade default rate penalties is by pressuring "risky" borrowers into taking out private loans instead of federal loans. Private loans are not included in cohort default rate statistics.

It is critical to ensure that these statistics are accurate for purposes of potential sanctions and for general research purposes. Otherwise, schools with serious problems escape penalties.

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[14] KeyCorp, Student Loan Trust 2000-A, June 15, 2000 at S-56-57.
[15] Fitch Ratings, "Private Education Loans: Time for a Re-Education" at 7 (Jan. 28, 2009).
[16] For a general review of studies of causes of student loan defaults, see Robin McMillion, TG Research and Analytical Services, "Student Loan Default Literature Review" (2004), available at: http://tgslc.org/pdf/default_lit_review.pdf.

This evasion is made easier by the liberal defenses allowed to schools that reach the penalty thresholds.

If Congressional action is needed to amend the default rate, in the meantime, the Department should still act to publicize life-time default rates and make this information as widely available as possible. The Department also has the discretion to consider a broader definition in determining whether schools should be allowed to participate in the federal aid programs.

4. Strengthen Admissions Criteria

Schools should be required to develop reasonable admissions criteria beyond high school diplomas and equivalencies. We believe, for example, that it is appropriate to require schools to administer additional aptitude tests to high school graduates (or those with GEDs). These tests should be tailored to the training program.

In addition, the current category of acceptable high school diploma equivalencies should be narrowed. For example, foreign diplomas should not be automatically considered equivalent if the student studied in a language other than English.

5. Strengthen School-Related Cancellations

The three cancellations intended mainly to address fraud are closed school, false certification, and unpaid refunds. It is important to emphasize that not one of these programs provides general remedies for borrowers who attended a fraudulent school. For example, a school may routinely pay admissions officers by commission in violation of incentive compensation rules, fail to provide educational materials or qualified teachers, and admit unqualified students on a regular basis. None of these violations is a ground for cancellation. Instead, each cancellation offers relief for a narrow set of circumstances. We recommend that Congress and the Department consider new cancellations that will afford relief to all borrowers who attend schools that violate key HEA regulations and for borrowers who have secured judgments against schools based on HEA violations but are unable to collect from the schools or other sources.

With respect to the existing programs and the regulatory process, we urge the Department to add the following items to the upcoming negotiated rulemaking agenda:

a. **Closed School Cancellation**: Expand and clarify the extenuating circumstances that allow borrowers to obtain closed school discharges even if they do not meet the 90 day standard.

b. **False Certification Cancellations**: The Department should specify that borrowers that submit a sworn statement establishing their eligibility for a false certification discharge and any available corroborating evidence are presumptively eligible for the discharge. Once presumptive eligibility is established, the burden would shift to the Department to disprove the borrower's eligibility.

c. **Expand the Group Discharge Program.** In cases where there is adequate and widespread proof of violations, the Department should affirmatively grant group discharges to appropriate cohorts of borrowers.

Additional recommendations for other cancellations are discussed below in the "Safety Net" section.

6. Provide Private Enforcement for Borrowers

Courts have consistently held that there is no private right of enforcement under the Higher Education Act (HEA). Borrowers may access the courts in some cases only when appealing adverse decisions. In addition, in some cases, borrowers can attempt to bring private cases by asserting violations of the HEA under state unfair and deceptive practices laws. There has been mixed success in this area.[17]

Under the current system, borrowers may complain to the Department when their rights are denied. However, in our experience, the Department fails to inform borrowers of these rights. Further, there is no clear system for raising these types of claims. We urge the Department to publicize any current processes that borrowers may use if their rights are denied or if they have defenses to loan repayment or collection. To the extent these processes are inadequate, we urge the Department to use this rulemaking process or other internal processes to improve these systems.

Beyond complaining to the Department, it is virtually impossible for a borrower to enforce her rights. Largely by default, most private enforcement of student loan violations, to the extent it occurs at all, is through the federal and state debt collection laws. The federal law is the Fair Debt Collection Practices Act (FDCPA).[18] This type of enforcement is most appropriate and useful when abusive and harassing debt collection agency conduct is involved. However, there are severe limitations to using this law to enforce borrower rights. Further, the FDCPA is an indirect way of obtaining relief. It is intended to address collection abuses. The available remedies are monetary damages. These can be extremely useful, but they do not help borrowers get the repayment plans or discharges to which they are entitled.

Another impediment to enforcement of rights occurs when schools violate the law, but then file for bankruptcy or close. The question is to what extent creditors should be liable for the violations of schools.

There is simply no effective avenue for relief for many borrowers. For example, we recently met with a single mom with a 20 year old developmentally disabled son. Her son was eager to go to school a few years ago and study auto mechanics. He enrolled in a proprietary school in Connecticut. The mother discussed the son's disabilities with the admissions staff. They ensured her that they would admit her son only if he passed rigorous admissions exams. He took the exams and was told he passed. It became clear early on that her son was not doing

[17] See generally National Consumer Law Center, Unfair and Deceptive Acts and Practices §3.2.7 (6th ed. 2004 and Supp.).
[18] 15 U.S.C. § 1692.

well. His mother went to the school and asked for a copy of his admissions exam. She was given a test that was not in her son's handwriting, although his name was written on it. The school ultimately admitted that this was a mistake and apologized. The son has left school and is emotionally devastated.

The school has moved on, but the mother and her son do not have this luxury until they can deal with the outstanding federal and private loans. The mother has spoken with a number of lawyers and has found, as most students do, that there are very few lawyers that have expertise in student loan matters. She works at a local non-profit and has a limited income that is just enough to disqualify her for legal aid. Even if she did qualify for legal aid, there are only scattered programs across the country that represent these clients. She cannot afford a private lawyer. A few pro bono lawyers have considered the case, but among other problems, it is difficult to bring a case when the son resides in Massachusetts, but the school is located in another state (Connecticut). There should be actionable claims against the school, but at best this will lead to a potential award of money damages, not cancellation of the loans. It is very difficult to hold the lenders liable for the school's fraudulent behavior even though the school and lender had a referral relationship. Further, none of the federal loan cancellations apply in this case.

A key issue for private enforcement is the FTC Holder Rule (more accurately referred to as the Federal Trade Commission Preservation of Claims Rule), which puts lenders on the hook when they have "referring relationships" with trade schools that defraud students or shut down unexpectedly. Under the provision, students are entitled to recover any payments they have made and to have their remaining indebtedness canceled.[19]

A favorite tactic of national banks is to ignore the rule, saying that it doesn't apply to them. Among other arguments, they claim that they are outside the reach of FTC enforcement. They also argue that state versions of the rule don't apply to them because such laws are preempted.[20] The creditors have also exploited a technicality in the FTC rule. The main problem is that the FTC rule obligates only the schools, not the lenders, to include the notice. In other words, the FTC can enforce the law only against schools that fail to include the notice, not the lenders.

This is a problem that must be fixed, but in the meantime it should not be used as an excuse for doing nothing. Regardless of who is required to insert the notice, the lenders are still engaged in unfair and deceptive business practices when they partner with schools that fail to include it . If banks are routinely being referred loans by schools and the schools are not arranging for the banks to put the notice in the notes as they are required to do, then the banks are using notes that violate federal law and should be liable for unfair practices.

Banking regulators must act to fill in the jurisdictional and legal gaps. The Department of Education should vigorously support these reforms.

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[19] 16 C.F.R. §433.2.

[20] *See, e.g.*, *Abel v. Keybank U.S.A.*, 313 F. Supp. 2d 720 (N.D. Ohio 2004); *Blanco v. Keybank USA*, 2005 WL 4135013 (N.D. Ohio 2005).

7. **Limit Advertising Expenses**

The Department should consider placing limits on the percentage of institutional expenses devoted to advertising for all schools that participate in federal aid programs. The Department should also investigate advertising claims and enforce false advertising cases.

8. **Develop Stronger Standards for State Licensing and Accreditation Agencies**

The current regulatory structure for schools participating in federal financial assistance programs is often referred to as the "triad." The three "arms" of the triad consist of the federal Department of Education, state agencies, and accrediting agencies. The Department (DOE) relies heavily on the other two arms to determine program standards. State regulation varies widely. Some states have developed standards setting, for example, minimum qualifications for teachers. Others have created state tuition recovery funds. Overall, nearly every state agency is understaffed and under funded.

The role of the accrediting agencies has been particularly controversial. During Senate hearings in the 1990s, the Senate noted the inherent conflict of interest in accreditation: once an agency approves a school for accreditation, the agency thereafter assumes the role of the school's advocate. An audit by the Office of the Inspector General (OIG) in July 2003 found multiple deficiencies with respect to the Accrediting Agency Evaluation Unit within the DOE. The OIG reserved the worst criticism for the Unit's oversight of regional and national accrediting agencies which were overseeing trade schools and recommended that no new agencies be approved until protections were in place.[21] Despite consistent reports of problems with enforcement, the basic model persists. In our 2005 report, we found enforcement was dismal in all arms of the triad.[22]

To help improve enforcement, the Department should set standardized criteria for acceptable state licensure and require regular review of schools by state agencies. This can be done through the regulatory process.

Stronger regulation and greater transparency are important goals. In our research for the 2005 report, for example, the Department's Inspector General's office referred us to the accreditation se agencies to get job placement data. The problem is that these agencies would not release any information. Most accreditation agencies collect data relating to institutional performance, yet none in our study considered the information to be public. Further, although they may have the most information on the proprietary schools they accredit, these agencies rely on the institution to self-report the data.

This lack of transparency is especially discouraging given that the General Accounting Office recommended in 1996 that accrediting agencies develop and make public uniform,

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[21] U.S. Department of Education, Office of Inspector General, "Office of Postsecondary Education, Accrediting Agency Evaluation Unit's Review of Selected Accrediting Agency Standards and Procedures," ED-OIG/A09-C0014 (July 2003).

[22] See National Consumer Law Center, "Making the Numbers Count: Why Proprietary School Data Doesn't Add Up and What Can be Done About It" (June 2005), available at: http://www.studentloanborrowerassistance.org/uploads/File/ProprietarySchoolsReport.pdf.

performance-based consumer protection standards, including information on completion and placement rates.[23] This was a key recommendation in response to the abuses of the late 1980's and early 1990's, yet it appears that it is still not being taken seriously.

II. Other Critical Student Loan Issues

A. Collection

Using private collection agencies not only to collect, but also to resolve disputes with borrowers has been a disaster for borrowers. In the federal loan programs, private collection agencies are given authority to act on behalf of the loan holder in everything from rehabilitation to information about discharges to loan compromises. Yet dispute resolution is not their primary mission. They are not adequately trained to understand and administer the complex borrower rights available under the Higher Education Act and there is insufficient oversight of their activities. As a result, consumers are deprived of important options to which they are legally entitled. Even worse, some collectors misrepresent these rights or steer consumers into options more profitable for the collector.

We have first-hand experiences with collection agency abuses. Time after time, when calling on behalf of clients, we are treated rudely and given inaccurate information. In a recent situation, a collection agency employee hung up on me twice when I was calling on behalf of my client. This is unacceptable and humiliating. We have the confidence and resources to fight back, but our clients rarely do.

We therefore recommend that the Department of Education terminate its contracts with private collection agencies and hire in-house staff to resolve disputes and collect debts. The Treasury Department made a similar move in March 2009 when it announced that the I.R.S. would not be renewing contracts with two private debt collection agencies working with the I.R.S Private Debt Collection program. The I.R.S determined that the work is best done by IRS employees who have more flexibility handling cases, particularly important with many taxpayers facing economic hardship.[24]

In the meantime, there are ways to improve the system so that private collection agencies follow the law and better serve borrowers, including:

1. **The Department should limit the files it sends to collection agencies**. At a minimum, borrowers that are already subject to extreme collection programs such as offset and have no other assets should not be pursued by collection agencies and should not be charged collection fees. If a borrower informs a collection agency that he believes he has a defense to

[23] U.S. General Accounting Office, "Department of Education: Status of Actions to Improve the Management of Student Financial Aid," GAO/HEHS-96-143 (July 1996).
[24] U.S. Department of the Treasury, Internal Revenue Service, "IRS Conducts Extensive Review, Decides Not to Renew Private Debt Collection Contracts" (March 5, 2009), available at: http://www.irs.gov/newsroom/article/0,,id=205021,00.html

the debt, that the amount is wrong, or that he wants to request a hardship waiver, the file should be immediately sent back to the loan holder.

2. **Collection charges should be limited to only those fees that are bona fide and reasonable and actually incurred.** In addition, the amount of fees to be charged must be clearly written in the promissory note. In no event should fees be capitalized. Reasonable collection fees should only be charged when actual costs are incurred and in no case for government offsets or wage garnishments. These limits can be set through regulation.

3. **Congress should require all student loan collectors to report not only on dollars collected, but also on how they are complying with the notice and hearing provisions of the Debt Collection Improvement Act (DCIA).**

4. **All collection notices and the Department's web site and other information sent to borrowers should include a toll-free phone number that borrowers can use to find out about their rights.** This program could be developed in coordination with the existing Student Loan Ombudsman office. In addition to the government program, we advocate developing a pilot project that sets up a neutral, non-profit entity to provide assistance to borrowers in trouble. (See below).

5. **The Department must not delegate inherently governmental functions, such as conducting fair hearings, to third party debt collectors.** Private debt collectors are not trained to understand and stay current on the latest agency rules and regulations.

6. **The Department and its agents should make publicly available its process for handling complaints against collection agencies and any disciplinary actions taken against those agencies.**

7. **All collection letters must include information about exemptions and other rights.**

B. Repayment

1. Rehabilitation

There are serious problems with the rehabilitation program. Among other actions, the Department should use the rulemaking process to ensure that borrowers are able to exercise their reasonable and affordable repayment rights. The problem in this area derives in part from a system established by the Department which provides compensation to collectors for setting up rehabilitation plans only if the plans require borrowers to make certain minimum payments. Yet borrowers have a statutory right to make reasonable and affordable repayments.[25]

The current system simply does not work well for low-income borrowers, many of whom will be trying to rehabilitate in order to use IBR. It does not work at the front end when the

[25] 20 U.S.C. §1078-6(a)(1).

borrowers are wrongly denied reasonable and affordable repayment terms. If borrowers clear this hurdle, the next barrier arises when the loan is sold and the new lender requires a standard repayment plan rather than allowing the borrower to choose a more affordable plan. These problems are exacerbated by current economic conditions in which many agencies are unable to find buyers for the loans.

We urge the following reforms to the rehabilitation process. Most of these can be addressed through the regulatory process:

1. **Repeal the "one-time" limit on rehabilitation.**

2. **Eliminate the requirement that guaranty agencies must sell loans to new holders prior to rehabilitation**. The statute includes a resale provision only if resale is practicable.[26] Alternatively, the Department should waive this requirement during periods when buyers are not available.

3. **Prohibit all collection during the rehabilitation period.** Most collectors will agree to cease collection, other than routine billing statements, when asked, but they do not automatically do so. This should be standardized in the regulations. It is contrary to both borrower and loan holder interests to continue collection efforts while a borrower is making the effort to repay through rehabilitation.

4. **Use the IBR formula to determine reasonable and affordable rehabilitation payments.**

5. **Penalize loan holders who deny borrowers reasonable and affordable repayments or claim that minimum payments are required.**

6. **Require creditors to remove all negative history on a credit report after rehabilitation.** Removal of only the "default notation" is only minimally helpful to borrowers who have earned a "fresh start."

Examples of recent rehabilitation problems we have recently encountered are attached at Appendix C.

2. Require all Loan Holders to Offer IBR or IBR to Borrowers in Late Stage Delinquency

We support development of a new system where loans held by lenders that are delinquent for a set period of time, such as six months, will be immediately assigned to the Department of Education. The Department would then be required to contact borrowers and offer them IBR or ICR to avoid default. At a minimum, if the FFEL loan holders continue to hold the loan, they should also be required to offer IBR at a certain stage of delinquency. Highlighting the IBR program does not preclude the borrower from later choosing other options, such as economic hardship deferrals or even trying to cancel their loans if they are eligible to do so.

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[26] Id.

3. **Strengthen and Clarify Loan Compromise Policies**

Although the current, limited compromise programs may work for some borrowers, it is difficult to obtain information about settlement and compromise options. The Department does not openly publicize these programs. Further, the only guidelines we know of are outdated (from 1993) and technically apply only to guaranty agencies.

We recommend at a minimum that:

1. **The Department should clarify and update its standards for compromise and write-off.** The existing guidelines were developed for guaranty agencies in 1993.

2. **The Department should build additional flexibility into the system.** It is often preferable for both borrowers and taxpayers to accept a lump sum and close the books on a particular loan rather than stretch out collection for an extended period. This is particularly true in cases where the costs of pursuing collection are likely to be greater over time than the amounts collected.

3. **Publicly disclose information about compromise and write-off options.**

C. **Restore a Student Loan Safety Net**

A viable safety net is essential and necessary for borrowers regardless of how or why they got into financial trouble. The government has extraordinary powers to collect student loans, far beyond those of most unsecured creditors. While collecting funds is important for the government and taxpayers, there comes a point of no return where the government's ceaseless efforts to collect make no sense, monetarily or otherwise. Restoration of the safety net must include bankruptcy rights for student loan borrowers, restoration of a statute of limitations, limits on Social Security offsets and EITC offsets, and enforcement of fair collection rights. A viable safety net also requires improvements to the disability and other discharge system, as discussed in greater detail below.

Although much of these changes require Congressional action, the Department can accomplish a number of important goals through the regulatory process. These include:

1. **Eliminate the current regulation which improperly allows loan holders to consider a prior bankruptcy in determining eligibility for PLUS loans.**[27] This conflicts with the provision in the Bankruptcy Code that prohibits the government, guarantors and lenders from discriminating against those who have not paid their student loans when those loans were discharged in bankruptcy.[28] This provision in the HEA should be eliminated in the rulemaking process.

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[27] 34 C.F.R. § 682.201(c)(2)(ii)(B).
[28] 11 U.S.C. §525(c).

2. **Ensure that all borrows have a right to suspension or reduction of the amount collected based on hardship.**

The current regulations for wage garnishment through the Debt Collection Improvement Act specifically provide at 34 C.F.R. §34.7 that "We consider objections to the rate or amount of withholding only if the objection rests on a claim that withholding at the proposed rate or amount would cause financial hardship to you and your dependents." This same language should be added to the guaranty agency garnishment hearing provisions at 34 C.F.R. §682.410, to the tax refund hearing provisions at 34 C.F.R. §30.33 et. seq. and to the offset regulations at 34 C.F.R. §30.20. The offset issue is particularly important because the Department currently takes the position that they may reduce offsets due to hardship at their discretion but are not required to do so

3. **Create a Fair and Equitable Disability Discharge Process.**

We represent numerous disabled borrowers and hear from borrowers and advocates across the country representing these borrowers. From our experience, the main flaw is that the disability discharge process is not merit-based. Truly disabled borrowers do not necessarily receive discharges. Instead, the borrowers who are able to overcome irrational procedural hurdles are the borrowers that most commonly receive discharges. We believe that regardless of policy differences, we can come together to ensure that the process is fair and administered according to existing regulations.

We have met with numerous Department staff in recent months about problems with the disability discharge process. We appreciate the Department's efforts to improve this process, but more needs to be done. Among other recommendations, we urge the Department to:

a. **Provide information about the basis for denials.** Borrowers are often told that the reason for a denial is "medical review failure", a category that can encompass just about anything from failure to sign a form properly, fill out a box, or an actual gap in medical information. A related issue is that borrowers and advocates are not informed if the reason for a denial is that the physician failed to complete requests for follow-up information. For this reason, clients and advocates should be informed if a delay is caused by a doctor's failure to respond to requests for additional information.

b. Fix the arbitrary medical review system. The Department routinely requests additional information from physicians who have already signed discharge forms, often giving these doctors unrealistic time tables to respond (such as three days). We hope that the new application form will alleviate some of these problems. This is assuming that the information requested on that form is targeted and is precisely the type of information the Department needs to make a final decision. However, the new form will more likely lead to merit-based decisions if the Department uses trained medical personnel to review the applications. At a minimum, we urge the Department to publicly provide information about this process, including details about the medial review system.

4. Eliminate the "Crime" Requirement for Identity Theft Cancellations

The false certification/identity theft cancellation adopted in 2006 remains mostly an illusory right as long as borrowers are required to prove that a crime was committed in order to obtain relief. The Department should adopt a standard of proof similar to the Fair Credit Reporting Act which defines identity theft as fraud committed or attempted using the identifying information of another person without authority. Allowing discharge when the thief was never prosecuted is particularly appropriate given the difficulties victims have experienced in getting public authorities to prosecute these crimes.

D. Ensure that Borrowers Can Enforce Their Rights and Increase Public Oversight and Enforcement

As discussed above, Congress must specify that borrowers and other parties with standing have a private right of action to enforce the HEA. In addition, the Department and other relevant state and federal agencies, including the Federal Trade Commission (FTC), must ensure that lenders and schools that are required to do so are complying with the FTC Holder Rule. Enforcement and oversight is especially important in the private student loan context.

There are other steps that can be taken without Congressional action. For example, we urge the Department as part of this rulemaking process to standardize the regulations for fair hearings and ensure that all fair hearing procedures are truly fair. A fair hearing should include the opportunity for consumers to choose from a list of neutral arbiters, easy access to records and reports related to their case and the opportunity to present testimony by phone if the closest agency forum is inconvenient. Agencies must require hearing officers to tape proceedings and to make transcripts available when requested by borrowers. These provisions can be clarified and strengthened through the regulatory process. In addition, the Department should clarify that borrowers are able to appeal adverse actions taken by guaranty agencies and other entities as well as actions taken by the Department.

E. Eliminate Predatory Private Student Lending

The Higher Education Opportunity Act (HEOA) makes some progress in curbing predatory student lending. However, most of the new private loan provisions are additional disclosure requirements. Disclosures alone will never be enough to stop predatory lending and will never adequately protect consumers. Other reforms are needed that will limit the fees and rates that lenders can charge and therefore help eliminate unsustainable loans. New laws should also require fair underwriting standards, accurate and accountable loan servicing, ensure effective rights and remedies for borrowers caught in unaffordable loans, improve assistance to distressed borrowers and require lenders to report basic information about private student loan borrowing.

Among other recommendations, we urge the Department to aggressively monitor the "self-certification" process established in the HEOA. There is a significant risk that this process will encourage excessive borrowing and enable fraud by both lenders and borrowers.

F. Expand the Borrower Assistance Network and Exercise Caution in Providing Referrals

In addition to strengthening effective existing programs, we advocate that Congress or possibly private funders create a pilot project that sets up a neutral, non-profit entity to provide assistance to borrowers in trouble. In the meantime, we are aware that the Department is attempting to find appropriate referrals for borrowers in trouble. During the last round of negotiated rulemaking, servicers and lenders were also asking for information about national assistance referral networks.

We urge the Department to act cautiously and avoid referring borrowers to services that are not neutral because they receive funding from or are otherwise affiliated with creditors or servicers. For-profit debt relief or student relief companies should also be avoided.

The unacceptable truth is that there are few neutral, comprehensive, full-service assistance services for borrowers. This gap will be closed only by creating such resources, not by referring borrowers to inadequate resources. For example, many call centers or counseling centers have only superficial knowledge of student loan issues. They may be able to help borrowers with general questions. However, most borrowers can be served only by attorneys or counselors who are familiar with student loan law and who will review borrowers' paperwork and other documents and will follow up with them. Counselors should be under the supervision of a lawyer or other professional who is knowledgeable about student loan law and keeps up with new developments. This is because even well-intentioned counselors may give erroneous advice about the often complex student loan programs. In addition, the difference between agencies that act as mediators and agencies that act as borrower advocates must be clearly delineated. These are different types of services that overlap and complement each other, but also come into conflict at times.

A critical step in building an adequate borrower assistance network is to evaluate the existing federal, state and guaranty agency ombudsman programs and other borrower assistance services to assess which programs are effective and why.

Thank you for your consideration of this testimony. Please feel free to contact Deanne Loonin if you have any questions or comments. (Ph: 617-542-8010; E-mail: dloonin@nclc.org).

APPENDIX A

Collected (and Unedited) Notes from Former McIntosh College Students

1. From Our Client Zachary

NAME- Zachary

GRADUATION DATE- June 2006

QUALITY OF INSTRUCTION- Extremely poor, the "teachers" were basically cooks/managers of local restaurants/hotels that were enticed by teachers hours and salary to try and teach. Some were better than others but none were certified teachers and lacked any formal experience or education.

JOB PLACEMENT HELP- I did not receive any job placement help but a "job fair" that basically had a few companies having you fill out applications. Most students had to contact companies themselves for the prospect of work. I landed my first job out of school without any help and quickly so how unprepared I was.

CURRENTLY WORKING IN FIELD- I am not working in the culinary field and have no desire too. About 2 months into the school I decided it might not be for me and tried to get out. They informed me that they had strict time frames something along the lines of the first 3 weeks is full refund, the next 3 is half and after that you can not receive anything. I was never informed of this prior to signing up, I assumed like most college you can drop out and pay for the classes you have taken, not here.

HOW DID YOU OBTAIN SALLIE MAE LOANS- I received these Sallie Mae loans from the school. I was brought into a room for my first tour of the college and told I could fill out an application for the school and loans and be accepted within minutes. I found this a little strange because I thought it was somewhat a process to get all this in order. I then proceeded to have papers placed in front of me stating that the school is this much (I think 37,000) which I thought was high. They then realized this and said that out of school most are placed in jobs and start around 42,000 and easily can re-pay loans. I then felt coaxed and tricked into signing these loans and never was informed of other options, companies or ways to obtain aid for school.

STATUS OF LOANS- Loans are in deferment because I'm currently trying to complete a real education and receive a Bachelors degree from Salem State College.

Original loan- 30,000…Now is at 50,000 (they make over 500 a month in interest off me, around 5k a year) interest rate at 10.500%

Original Loan 7,500….Now is at 11,000…interest rate 14.875%

DID YOURECEIEVE HELP FROM SALLIE MAE- When I went to attend Salem State College and they informed me about student loans I quickly researched my Sallie Mae loans more closely. I came across the outrageous interest rates and capitalized interest and immediately called to try and fix it to make reasonable payments. They persisted in saying that can't do anything and If I don't like the variable interest rate to consolidate elsewhere. (knowing full well that this is impossible). My parents have filed bankruptcy and cannot help and I'm trying to save for a house etc and have been crippled by loans I never wanted or understood. The company does not practice any business ethics and have no respect for customers or people as individuals.

Information Collected by Zachary From Other Former Students

NAME- **STUDENT A**

GRADUATION DATE- June 2003

QUALITY OF INSTRUCTION- "The quality of instruction was a joke and I agree totally with you that most of the teachers probably weren't real teachers. It was almost like they were learning as they go along. There's a lot about the staff I wont go on about but I can, everything from favoring certain students to changing grades from F's to A's.-which I know for a FACT, not just hearsay.

JOB PLACEMENT- "They had a job placement chef who spoke to me 2-3 times and he pretty much told me it was my job to find placement which I did myself, but I have a friend whom he placed in a spot that only took 1-2 people every other year. He only did stuff like that for "promising" students which is nice way of saying kids he likes, cause I was one of the top of my class (deans list & everything) & my friend was far from it, so I don't know how he choose who to help."

CURRENTLY WORKING IN FIELD- "I do still work as a cook/chef but since a fire claimed my Mother, house, possessions, and ruined my family financially. Due to the fire and everything legal involved with the house fire, I've been taking care of my father who has Early Onset Dimensia, which is a ton of work as it is. Though while I was working, I never made anywhere near the type of money they said i would be and never was able to even make the ridiculously high payments. When I started working after I got out of school, I was living on my own only making 7-8$ hr. at ultra high class restaurants and Sallie Mae payments were more than 2&1/2 weeks of my paychecks, but after my 800$ rent which was cheap at the time and my other bills, I never made enough to pay, and they never would work anything out or even consolidate."

HOW DID YOU OBTAIN SALLIE MAE LOANS- "The School just said these were the loans that could help me go to school, I didn't even know anything about loans or that there were ANY other options. What a cruel lesson to learn to watch what you sign.

Just like I stated above the school pretty much did it all, I just signed the papers, which in turn signed my life away."

STATUS OF LOANS-

"They said my total loan was more than Sallie Mae could lend at 1 time so I was forced to take 2 Sallie Mae loans out and they were:"

1. $15,600.00 on 10/11/02-12.750% Interest
2. $13,650.00 on 5/23/03-15.250% Interest

Total $29,250.00

I'm in collections now for-

1. $40,387.50
2. $37,983.36 both includes their OWN interest and Fees for a grand total of roughly:

$78,370.86

"What I borrowed=$29,250.00

What it Cost me= $78,370.86"

Close to $50k in interest and fees

DID YOU RECEIVE HELP FROM SALLIE MAE- "Sallie Mae gave me the loans, and it was the worst lesson of my life. Their repayment plan was more than I was making and could survive on my own with. They took my tax return I'm ashamed to say, but honestly they were jerks and wouldn't even work or consolidate with me. After I had missed a couple payments they wanted it all at one time to catch up or they would impose all sorts of fees and whatnot. Soon it got out of control and now I have a huge debt over my head with no help. They wont work with me at all, what they call "working with me" is asking now for the whole sum of the loan. Which is impossible; especially after my family lost everything in a house fire last January (including my mother), and did that stop the calls? Nope."

NAME- **STUDENT B**

DATE OF GRADUATION- June 2004

QUALITY OF INSTRUCTION- "I personally thought they just hired random chefs and they had no teaching abilities"

JOB PLACEMENT- "I have had to search for jobs myself. They have not really helped me out."

CURRENTLY WORKING IN FIELD- "have yet to find a job in my field and was told when enrolled that it was a 98% job placement. Ask all the people I graduated with who actually have a job in the field. You won't find many."

HOW DID YOU OBTAIN SALLIE MAE LOANS- "They set me up to these loan, I went in tired a lot from working fulltime while attending school fulltime and I was miss lead in what the loans were and how my the interest rates were. Was under the impression none were higher then 8% turned out its 8% or so plus prime"

STATS OF LOANS- "My loans with Sallie Mae are def in collections. I cannot afford to pay them off. At one point the interest was almost 20% here are the rates they are at this moment."

HAVE YOU RECEIVED HELP FROM SALLIE MAE- "I cannot consolidate them nor can I defer them with out paying a fee for each. I have not been able to pay a cent on these unfortunately."

NAME-**STUDENT C**

DATE OF GRADUATION- "I was in school May 06 to June 07. I have not completed the externship portion of the degree because I cannot get a loan due to the amount of loans that I have already. This is preventing me from even graduating from the school."

QUALITY OF INSTRUCTION- "The faculty was lacking to say the least, out of 15 chef instructors 3 to 4 actually made a dent in learning most just went through the motions."

JOB PLACEMENT- "After school i went out west to CA they were no help with finding me an externship I finished and externship just not through the school the restaurant I worked at when I got to CA had there own externship plan I filled out the necessary paper work that McIntosh asked of me and even faxed them many times but no help all i get is a transfer call to financial aid telling me that I need 3,000 dollars to finish up and get a diploma, and when I was first told about how much the externship was it was $750 now its more than 3 times as much."

CURRENTLY WORKING IN FIELD- "I am still working in this field they also did not help with job placement or as I said before externship placement."

HOW DID YOU OBTAIN SALLIE MAE LOANS- "When I decided to further my education in the culinary world I looked up schools online, within a half hour of sending requests of info I got a call, this should have been an inclination of what type of school that it is. When I arrived I was bombarded by financial aid and loans that I need to stay at that school. The financial aid department was the worst that I have ever seen at any college. I had been to two other school before McIntosh so I have dealt with financial aid before, late with stipend checks, almost every one, that was money to live with not play with, so you see the urgency, and never willing to work with anyone on loans. Just doing what they had to do to get loans no matter what interest rate, payment plan, ect..."

STATS OF LOANS-

"I have 4 loans

Loan 1 disbursed date 5/24/06 $28,144 interest rate 12.25

Loan 2 6/9/06 $2,625 interest rate 4.21

Loan 3 5/11/07 $20,500 interest rate 9.75

Loan 4 5/11/07 $3,500 interest rate 6.80"

Monthly rate now is $582.99 and originally it was $750

Principal balance 61,314.23 with interest almost $100,000!

HAVE YOU RECEIVED HELP FROM SALLIE MAE- "My loans were in forbearance but when I asked to change my monthly payment they brought them up to current, and as of now I have to ask for another forbearance because they will not work with me ,i have tried many times but no give."

NAME- **STUDENT D**

DATE OF GRADUATION- May 2003

QUALITY OF INSTRUCTION- "I felt the quality of the instructors was mediocre. They seemed like they were just chefs who were pulled off the street, no teaching abilities."

JOB PLACEMENT- "I wasn't helped in the least with job placement. I had found a job on my own by the time school was done."

CURRENTLY WORKING IN FIELD- "Yes I am still currently working in the field."

HOW DID YOU OBTAIN SALLIE MAE LOANS- "The financial aid department had set up all my loans and just had me sign without really explaining what I was getting into. At 18 years old someone telling you to sign a piece of paper and you can go to college, thats what you do."

SATUS OF LOANS- "I currently owe approximately $27,000, with an interest rate of 13.875%."

HAVE YOU RECEIVED HELP FROM SALLIE MAE- "I have not received any help and when I tried to reach them for an affordable payment they said there was nothing that could be done but a deferment, which would cost penalties and fees.

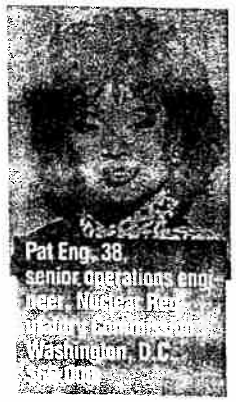
APPENDIX B

THE GOING RATE FOR WOMEN

Government salaries are a matter of public record (Sandra Day O'Connor, Supreme Court justice, $164,100; Donna Shalala, secretary, Health and Human Services, $148,400; Hillary Clinton, first lady, $0.00). Corporate annual reports list the compensation packages of their executives (Turi Josefsen, executive vice president, United States Surgical Corporation, $1.2 million). And everyone seems to know what Michelle Pfeiffer makes (a reported $3 million per film). But what do other women earn? We came up with this sampling:


Regina Wages, 25,
police officer, Charleston,
South Carolina
$25,000

Susan Hutnik, 25,
outreach coordinator at a
domestic violence and
sexual-assault center,
Stroudsburg, Pennsylvania
$18,000


Pat Eng, 38,
senior operations engi-
neer, Nuclear [illegible]
[illegible]
Washington, D.C.
[illegible]

Karen Reuter, 49,
associate professor
of radiology,
Wellesley, Massachusetts
$132,000

Denise Hungerford,
25, waitress,
St. Paul, Minnesota
$20,000

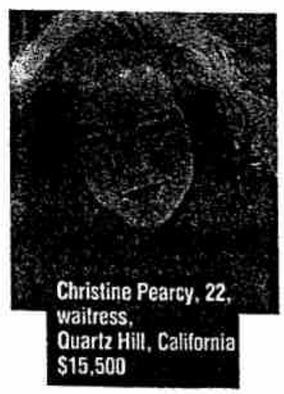
Sharon Fabel, 26,
kindergarten teacher,
Scarsdale, New York
$36,000

Lisa Heirshberg, 32, part-
time legal secretary,
Santa Monica, California
$24,000

Paige [illegible], [illegible], president
of an executive
matchmaking company,
Chicago, Illinois
$90,000


Anne Marie Duggan, 31,
professional bowler,
[illegible]
$60,000

Sharon Areen, 35,
zookeeper,
Denver, Colorado
$25,000


Christine Pearcy, 22,
waitress,
Quartz Hill, California
$15,500

[illegible], [illegible],
freelance set designer,
Woodbridge, Virginia
$35,000

Barbara Curtis, 30, office
manager at a [illegible]
Ault, [illegible]

Lisa Mueller, 28, hairstylist,
Northbrook, Illinois
$49,000

Danette DiJames, 23,
receptionist and
[illegible]
Dallas, Texas
$15,000

Debbie Schumacher,
39, warehouse foreman,
Boonville, Indiana
$32,000

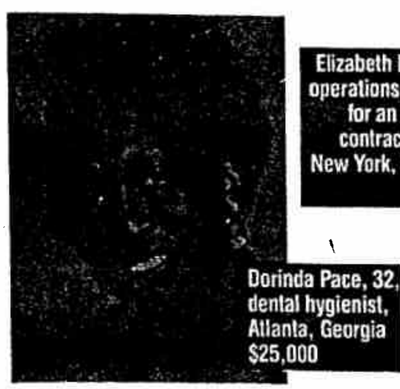

Barbara McCollun, 34,
apprentice cabinet-
maker, Chicago, Illinois
$16,500

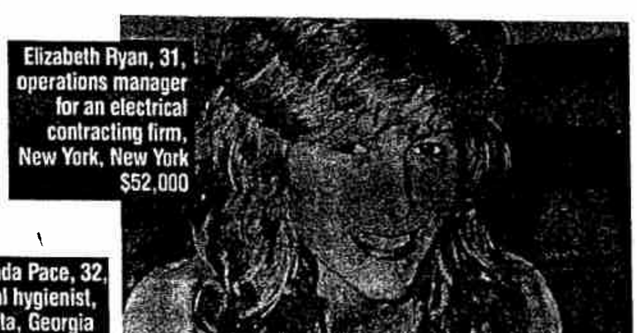
Abbe Jacobson, 26, reporter,
Alexandria, Virginia
$23,000

Michele Spencer,
29, physical therapist,
Dallas, Texas
$57,000

Jeanette Adams, 25, nurse,
Atlanta, Georgia
$32,000

Grace Ege, 26,
executive secretary,
Phoenix, Arizona
$18,500


Dorinda Pace, 32,
dental hygienist,
Atlanta, Georgia
$25,000


Elizabeth Ryan, 31,
operations manager
for an electrical
contracting firm,
New York, New York
$52,000

Luscious HAIR

Serge Normant, the man Julia Roberts calls for the Oscars, shows off a few of his favorite styles. By Danielle Pergament

HE HAS TRANSFORMED HEATHER Locklear into a Hitchcock heroine by way of a French twist, and transported Cindy Crawford back to the early 1900s with a proper bun. But Paris-born hairstylist Serge Normant insists he's not living in the past. "You can be inspired by the past without being passé," he says. "It's a matter of giving a modern edge to an old style."

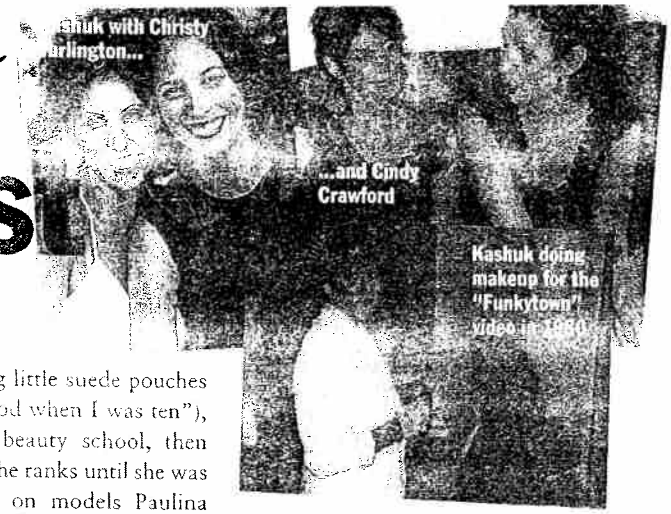
Next month, Normant is coming out with his first book, *Femme Fatale* (Viking Studio). With discussions of ancient Greece, postrevolutionary France, Victorian England, and American disco, the book is as much a History Channel feature as it is a tribute to hair. "We can have fun with the past," he says. "We can learn from it, copy it, and see what we'd look like if we were in it." Of all the eras, Normant does have a favorite. "The '60s," he says without hesitating. "The style was feminine and overdone—I remember pictures of Jackie O and Brigitte Bardot and thinking it was all so glamorous. I love using those styles as inspiration"—with a twist, that is.

THE MAN BEHIND THE SCENES

"I like to experiment with different looks and styles," Normant says. "Sometimes it's good not to think too much and just do what comes naturally." Clockwise from top: Normant's book of celebrity hairstyles, *Femme Fatale*; a tousle with Angelina Jolie; a touch-up on Heather Locklear; a portrait of the artist; posing with model Linda Evangelista.

A-1 Beautiful People

With a Twist



Sonia Kashuk: Makeup Artist

By Elizabeth Einstein


Sonia Kashuk

Sonia Kashuk isn't ashamed to admit it: Disco changed her life. "I was styling the wardrobe for a music video of 'Funkytown,' in 1980, and the makeup artist canceled the night before the shoot," Kashuk says. "Luckily, the director didn't know anything about makeup—he asked me to do it, basically because I was wearing a lot." That's when Kashuk decided to ditch the fashion-styling business for good.

Industrious since childhood ("I was making and selling little suede pouches in the neighborhood when I was ten"), Kashuk went to beauty school, then quickly ascended the ranks until she was applying makeup on models Paulina Porizkova, Cindy Crawford, and Christy Turlington for runway shows and magazine covers. "I was drawn to the crazy, face-painting, abstract kind of makeup in the fashion world," she says. "I didn't like anything conventional."

In 1996, Kashuk collaborated with Crawford on a beauty book—not a glossy vanity publication, but a spiral-bound workbook. Then, in an abrupt switch, Kashuk left the world of fabulousness and went to Target, where she cooked up a line of makeup and skin-care products that had nothing to do with supermodels. "I wanted to reach as wide an audience as possible," she says. "And I knew Target wouldn't be snooty."

> *"Beauty isn't just artificial or superficial—and it's not just about your face."*

Continuing to demystify makeup, her latest book, *Real Beauty*, shows famous clients in everyday clothes and relaxed poses—more snapshots than artful portraits. And rather than concentrating solely on cosmetics, Kashuk turns to experts in other fields, like dermatology, nutrition, and fitness. "Makeup can be transforming," Kashuk says, "but beauty isn't just artificial or superficial—and it's not just about your face." She has an ambitious goal: to broaden the definition of beauty. "I was always the weird kid—the middle child, the most difficult, the most experimental," Kashuk says. "All my old friends say I never really fit in—but look where it got me."

APPENDIX C
Recent Examples of Rehabilitation Problems
National Consumer Law Center
April 14, 2009

1. **(Information from a borrower writing to our Student Loan Borrower Assistance site).** A borrower in California set up a rehabilitation agreement with Van Ru in spring 2008. The borrower is an elementary school teacher who now works in the San Francisco Bay Area. She was previously living in New Orleans, but had to leave due to Hurricane Katrina. The trauma and confusion associated with her move led her to fall behind on her student loans.

She paid her nine monthly "reasonable and affordable" payments of $572. When she completed the nine payments, the collection agency (Van Ru) staff said that her payments did not count toward rehabilitation because they had raised the payment amount to $675/month. She did not know about the increase and still does not know the reason for any increase. When she inquired about her options at that point, the agency said she had to start all over again with rehabilitation or consolidate with Direct Loans. They sent her a consolidation application to sign. She thought it was a new rehabilitation application and she asked for reassurance in writing that she would get credit for her previous 9 payments. An e-mail from a Department of Education employee stated in response: "OK, then my job is done because nothing is going to happen unless this form is signed and on file. If Van Ru does not have the form, I can't make them have one, nor can I guarantee that your loan will be rehabilitated. I can guarantee that unless I can get this form, nothing will happen. Also, keep in mind that once the loan is rehabilitated, you have to pay off the balance in 9 years."

This is troubling for a number of reasons. First, the "form" was apparently a consolidation loan form. Yet the Department employee described it as related to rehabilitation. Second, the borrower was only requesting confirmation of her previous payments. The "attitude" displayed by the DOE staff is hardly borrower-friendly.

(Note: We contacted the ombudsman office about this case and they are working on it).

2. **(Information from a credit counselor working with a borrower).** A borrower in Oregon recently received a notice of garnishment. The collection agency told her they could rehabilitate her loan if she were to pay $400 on top of the $414 that was scheduled to be garnished. She had requested a hearing on hardship grounds, but apparently did not request in time to hold off the garnishment.

This is a very common problem. We understand that garnishment payments are not considered "voluntary" for purposes of rehabilitation. However, many guaranty and collection agencies will agree to set up a rehabilitation plan that includes a garnishment and rehabilitation payment that cumulatively equal the borrower's reasonable and affordable payment. This can be gone by lowering the garnishment amount or by requiring a modest voluntary payment amount. Either way, it allows a borrower in

garnishment to successfully rehabilitate. This is extremely helpful for borrowers, but many agencies fail to offer such solutions.

3. **(Similar issue as #2 above. This borrower contacted us through the Student Loan Borrower Assistance site).** A borrower in Texas reported that she attempted to work out a repayment agreement once she got the notice of garnishment. She was confused about her obligation to repay the loan due to issues with her ex-husband. The garnishment amount was $400 and the borrower provided documentation that she could afford to pay no more than that. The collection agency insisted that she had to pay $400 to rehabilitate in addition to the $400 being garnished. It turns out that this borrower had a defaulted Direct Consolidation Loan, so the collection agency was working on behalf of the Department. Ultimately, with intervention, the Department agreed to take the account back from the collection agency and set up a small voluntary payment in addition to the garnishment so that the borrower would be eligible for rehabilitation. She was unable to get anywhere on her own among other problems because she said the collection agency staff was very "nasty."

4. **(SLBA case consultation with a Philadelphia legal service program).** A low-income borrower had a rehabilitation agreement with PHEAA requiring him to make payments of $50/month. He made the nine payments, but PHEAA is currently unable to find a buyer. The borrower was planning to continue paying his $50 monthly payments while a buyer was sought, but PHEAA staff told him that he had to start paying over $500/month until his loan is sold. It is unclear why PHEAA claimed that the borrower would have to start paying $500, but it touches on the issue of how much borrowers have to pay post-rehabilitation. In my experience, guaranty agencies are continuing to claim that borrowers will have to set up a ten year payment plan post-rehabilitation even though this was never true in all circumstances (extended repayment and ISR with the possibility of extending the loan term have been available all along), but is particularly bad information for borrowers entering rehabilitation now since they will be able to choose IBR once their plan is completed.