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For-Profit College System Expected to Pay Millions

By Stephanie Saul

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The nation's second-largest for-profit college operator, Education Management Corporation, is expected to agree to pay nearly $90 million to settle a case accusing it of compensating employees based on how many students they enrolled, encouraging hyperaggressive boiler room tactics to increase revenue.

The civil settlement, the largest ever involving false claims made to the Department of Education, is expected to be announced in Washington on Monday. The case against the school was initially brought by whistle-blowers and joined by the Department of Justice and several states in August 2011.

Education Management could not be reached for comment.

The settlement would resolve accusations against the company under the consumer protection laws of 39 states and the District of Columbia. Two whistle-blowers, former Education Management employees whose complaints initiated the suit, are also set to receive some of the proceeds.

It was not known whether Education Management, which is based in Pittsburgh, would acknowledge wrongdoing. The company operates online and at brick-and-mortar locations in 32 states and Canada under the names the Art Institute, Argosy University, Brown Mackie College and South University.

The company was accused of violating a federal ban on per capita incentive compensation at institutions that participate in federal student financial aid programs. The ban was designed to prevent the enrollment of unqualified students.

About 90 percent of the tuition money the company collected at the four school systems — or $11 billion between July 2003 and June 2011 — came from federal aid, including subsidized loans and Pell grants to help low-income students obtain college educations, according to the accusations. The case said the revenue had been the result of the fraud.

Had the suit gone to trial, a verdict against the company could have reached into the billions. The government was believed to have accepted a lower settlement because of the financial difficulties of Education Management, part of which is owned by Goldman Sachs.

The case cast a pall over the for-profit college industry and was among the factors leading to declining enrollment at for-profit colleges. Since the lawsuit's announcement, the company's price per share has dropped to 8 cents from about $22.

The case against Education Management is the latest action the Department of Education has taken in a crackdown on fraud in the for-profit college sector aimed at denying federal money to programs whose graduates do not earn enough to pay back their college loans.

Most campuses of Corinthian Colleges, a for-profit company that at one time enrolled more than 100,000 students, were sold off last year under an agreement with the government. The company's remaining operations at Heald College, mostly in California, were closed suddenly in April, the same month the Education Department fined the company $30 million, saying it lied about the success of its students. Corinthian filed for bankruptcy in May.

More recently, one of the largest for-profit providers, the University of Phoenix, announced in a filing to the Securities and Exchange Commission that it was under federal investigation for deceptive and unfair practices. The company is owned by the Apollo Education Group.

The Education Management case began in 2007 when an employee — Lynntoya Washington, a former assistant director of admissions at the Art Institute of Pittsburgh Online Division — filed charges in federal court in western Pennsylvania under the False Claims Act, which permits private citizens who know of fraud against the government to sue in the government's name.

The case was unsealed in 2011, when the government elected to join. By that time, another whistle-blower had joined — the director of training for Education Management's online higher education division, Michael T. Mahoney.

The case said the company had violated the law by, among other things, paying recruiters based on the number of students they enrolled and through a system of bonus incentives.

The top 10 percent of admissions workers, for example, received so-called President's Club trips, all-expenses-paid vacations to destinations including Cancun and Puerto Vallarta, both in Mexico, and Las Vegas, and were permitted to take a loved one at no cost, according to the complaint. Other bonuses included Starbucks gift cards, Godiva chocolates, Pittsburgh Pirates tickets, free lunches and time off.

The evidence collected revealed "a real parade of horrible anecdotes," said Harry Litman, a Pittsburgh lawyer who served as lead counsel for the whistle-blowers. Mr. Litman, who would not confirm the existence of a settlement, said the inside joke at Education Management was that, to qualify for enrollment, students needed only a "pulse and a Pell" — referring to the federal Pell grants.

"It's the taxpayers in general who were ripped off," he said. "But the most vivid victims here are students who were reeled in with high-pressure tactics and wound up often defaulting with outsized loans that they can't discharge in bankruptcy. It's pretty tragic."

Neither Ms. Washington nor Mr. Mahoney was available for comment.

In the Corinthian case, the government announced a program of debt forgiveness to students who had enrolled. It was not clear whether a similar plan was being arranged for students of Education Management's colleges.

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