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SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION

SUPERIOR COURT OF NJ
FEE OFFICE
COUNTY OF HUDSON

PLAINTIFF

ASPEN UNIVERSITY, INC.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUDSON COUNTY

DOCKET NO.

vs.

L-974-08

HALYARD EDUCATION PARTNERS,
LLC and ELEARNERS.COM, LLC

060
2-25-08
350
200
PAID

DEFENDANTS

Civil Action

COMPLAINT & JURY DEMAND

The plaintiff, Aspen University, Inc., located at 501 S. Cherry Street, Suite 350 Denver, Colorado 80246, by way of Complaint against the defendants, says:

1. The Plaintiff, Aspen University, Inc., hereinafter referred to as "Aspen" is a Delaware Corporation with its business office located in Denver, Colorado. Its sole business is to provide distance education and it is accredited to do so in accordance with the United States Department of Education.
2. The Defendant, Halyard Education Partners, LLC, hereinafter referred to as "Halyard" is, upon information and belief, a New York Limited Liability Company, located at 600 Fifth Avenue, 17th Floor, New York, NY 10020 and its principal business is to

provide online services to education providers and prospective online or distance education students.

3. Defendant eLearners.com, LLC, hereinafter referred to as "eLearners" is, upon information and belief, a Delaware Limited Liability Company, registered in the State of New Jersey as foreign Limited Liability Company (Registration Number: 0600234401), located at 1100 Adams Street, Hoboken, New Jersey 07030 and its principal business is to provide online marketing and information services to the postsecondary and continuing education markets including both the prospective students and the education providers.

4. Halyard owns a majority interest in and has a controlling interest over eLearners.

5. On or about May 10, 2007, Aspen and Halyard/eLearners entered into an advertising Agreement by which eLearners was obligated to provide Aspen "qualified leads" and Aspen was obligated to pay eLearners for each qualified lead.

6. Aspen properly terminated the Agreement, pursuant to its terms, on or about October 31, 2007. A copy of the Agreement, consisting of four (4) pages, the page numbering notwithstanding, is annexed hereto as Schedule "A".

7. Hudson County, was by contract, stipulated as the exclusive venue for any action, under the Contract.

FIRST COUNT
BREACH OF CONTRACT

8. The allegations set forth in Paragraphs 1 through 7 are incorporated as if set forth verbatim.

9. eLearners, pursuant to Schedule "A" agreed to advertise the Plaintiff's school in order to generate qualified leads of "a prospective student... interested in information or enrolling with advertiser". Said "prospective students" were defined as "a lead".

10. eLearners subcontracted all or a portion of the advertising obligations to independent agents who generated "leads", providing those "leads" to eLearners which in turn submitted them to Aspen.

11. During the term of the Agreement, eLearners provided Aspen approximately 2790 "leads".

12. Aspen determined that the vast majority of the "leads" provided were the names of people who were not "prospective students" and who were not "interested in information or enrolling with Advertiser."

13. Aspen has determined that a significant portion of the leads contained invalid contact information making it impossible for Aspen to verify the data within the period of time provided in the Agreement.

14. Aspen has paid eLearners \$63,825.00 and eLearners has demanded additional payments totaling approximately \$180,000.00.

15. eLearners has failed to perform its duty under the Agreement by failing to provide the leads required under the Agreement, i.e., prospective students interested in information about or enrolling in Aspen.

16. eLearners knew or should have known that the independent agents it utilized provided invalid names of people as leads and yet did not inform Aspen of this fact.

17. eLearners knew or should have known the information it received from its agents was invalid, yet did nothing to correct that problem or insure that the information it provided the client fulfilled the contract requirements.

18. The Contract between the parties included the implied covenant of good faith and fair dealing, which has been breached by the Defendants.

WHEREFORE, plaintiff, Aspen University, Inc. requests judgment as follows:

- a) Compensatory damages;
- b) Punitive damages;
- c) Interest,
- d) Costs of suit;
- e) Attorneys fees;
- f) And whatever other relief this Court, in its discretion, may deem fair and just.

SECOND COUNT
FRAUD

19. The plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 18 as if set forth verbatim.

20. eLearners is obligated under the Agreement to provide leads as defined in Paragraph 2 of the Agreement, requiring that the leads be individuals who positively responded to advertising placed on behalf of Aspen University and positively responded with an interest in receiving information about Aspen University or enrolling in Aspen University.

21. eLearners had specific knowledge at the time it entered into the Agreement that names to be provided through its agents would be false and invalid.

22. eLearners intentionally established a system in which it would knowingly provide false and invalid data for the leads provided to Aspen making it impossible for Aspen to verify the data as specified in the contract.

23. eLearners and Halyard engaged in a pattern of conduct whereby it provided leads to the Plaintiff knowing them to be invalid and false, and without sufficient information for the Plaintiff verify within the timeline of the Agreement. It knew that the Plaintiff would be relying on the accuracy and legitimacy of the provided leads.

24. eLearners made the representation regarding the nature of the leads to be provided for the express purpose of inducing Aspen to enter into the Advertising Agreement.

25. Aspen justifiably and materially relied upon the representations regarding the nature of the leads it was to be provided in deciding to enter into the Advertising Agreement.

WHEREFORE, plaintiff, Aspen University, Inc. requests judgment as follows:

- a) Compensatory damages;
- b) Punitive damages;
- c) Interest,
- d) Costs of suit;
- e) Attorneys fees;
- f) And whatever other relief this Court, in its discretion, may deem fair and just.

THIRD COUNT

26. The allegations set forth in Paragraphs 1 through 25 are repeated as if more particularly set forth herein verbatim.

27. The content of Schedule "A" is subject to the provisions of the Consumer Fraud Act (N.J.S.A. 56:8-1, et seq.)

28. The conduct of the Defendant constitutes and unconscionable commercial practice, deception, false promise and misrepresentation and constitutes a violation of the Act.

29. As a result of the Defendants' conduct as aforesaid, the Plaintiff has been damaged.

WHEREFORE, plaintiff, Aspen University, Inc. requests judgment as follows:

- a) Compensatory damages;
- b) Punitive damages;
- c) Interest,
- d) Costs of suit;
- e) Attorneys fees;
- f) Treble damages;
- g) And whatever other relief this Court, in its discretion, may deem fair and just.



Howard Butensky

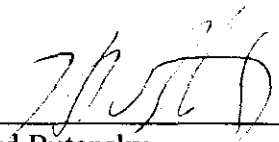
CERTIFICATION PURSUANT TO R. 4:5-1

Howard Butensky, hereby certifies:

1. The matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.
2. There are no other known parties to this action who should be joined at this time.

3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 5th, 2008

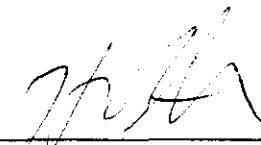


Howard Butensky

DESIGNATION OF TRIAL COUNSEL

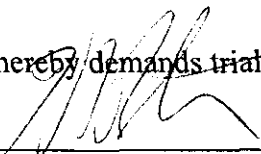
Please take notice that Howard Butensky, Esq., attorney for the plaintiff is hereby designated as trial counsel, pursuant to R. 4:25-4.

Dated: February 22nd, 2008



Howard Butensky

Plaintiff hereby demands trial by jury.



Howard Butensky