Testimony of

Illinois Attorney General Lisa Madigan

Testimony before the

Subcommittee on Administrative Oversight and the Courts
Senate Committee on the Judiciary

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Hearing on

"THE LOOMING STUDENT DEBT CRISIS: PROVIDING FAIRNESS FOR STRUGGLING STUDENTS"

Protecting Consumers from Predatory Student Loan Practices:
The Perspective of Illinois Attorney General Lisa Madigan

Introduction

Senator Durbin and members of the subcommittee, thank you for inviting me to testify today about a growing problem that that could result in our nation's next great economic crisis if left unchecked.

The costs of obtaining an advanced education in this country are rapidly exceeding the financial means of most families. Millions of college students and graduates are carrying debt loads of crippling proportions. An abundance of statistics substantiates borrowers' daily struggles to manage their student loan debt. To highlight just a few:

A recent report by the National Association of Consumer Bankruptcy Attorneys estimates that college seniors who graduated in 2010 owed an average of $25,250.00, up 5 % from 2009.[1] Student loan debt is increasing at a rate of about $2,853.88 per second. The delinquency rates for these loans are equally alarming. According to a report released this month by the Federal Reserve Bank of New York, as many as 27 % of our nation's 37 million student loan borrowers are 30 days or more past-due on their balances. Collectively, American consumers now owe about $870 billon in student loan debt, surpassing the amount of our nation's household credit card debt. This financial burden is not borne exclusively by young adults. Nationally, 5.3 % of consumers carrying student loan debt are age 60 or over, and another 11 % are age 50 to 59. These numbers indicate that parents are increasingly taking out loans to pay for their children's advanced education, and are carrying the debt into their retirement years.

A growing percentage of this loan debt comes from private student loans, which often carry higher interest rates and fewer consumer protections than government loans. According to the Department of Education, between 2003-04 and 2007-08, the percentage of undergraduates obtaining private student loans rose from 5 % to 14 %, and the percentage of graduate students obtaining private student loans increased from 7 % to 11%. In 2007-08, the Department of Education estimated that lenders provided about $22 billion in private loans.

Prior to the economic crisis of 2008, many proprietary schools partnered with third party lenders to provide private student loans to their students outside the federal student loan program. These loans were usually more expensive than federal student loans and were made with little or no underwriting, similar to what occurred in the mortgage lending market. When these loans began to fail, lenders left the market. Students, however, are still saddled with these expensive and often unaffordable loans, which cannot be discharged in bankruptcy.

My Office has been aggressively pursuing the faulty underwriting practices of mortgage lenders for years, and we are taking an equally aggressive approach to reviewing the lending practices of proprietary schools. In our recent investigations we have seen the rise of expensive private loans that are self-financed by the schools themselves or by others through school loan guarantees.

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[1] **"**The Student Loan 'Debt Bomb': America's Next Mortgage-Style Economic Crisis?" The American Association of Consumer Bankruptcy Attorneys, February 2012.

Schools continue to use private lending in spite of the fact that default rates for proprietary schools loans are extremely high. According to a 2011 report from the National Consumer Law Center, institutional loans to students at for-profit colleges have surged. For example, Corinthian Colleges reports that a significant number of its students have institutional loans as well as federal loans, and the company plans to double its institutional loan volume to $240 million per year, even though it is writing off 55% of these loans. Other large for-profit college companies, such as ITT Educational Services and Career Education Corporation, are also lending to students, despite anticipating write-offs in excess of 40% of these loans.

One reason proprietary schools continue to offer expensive private loans is to satisfy the federal "90-10" rule, which requires that at least 10% of the school's lending come from non-Title IV funding. These private loans carry high interest rates. In Illinois, Westwood College offers a private loan with an APR of 18%. Some schools such as Westwood require students to make payments on institutional loans while they are still enrolled. This policy differs from federal loans, which can be deferred during school. Students tell my Office they are confused about where these payments are going and have difficulty making the payments while still enrolled.

The Illinois Experience

At the state level we see first-hand the damage done to the lives of students burdened with enormous debt loads from proprietary schools. These students wanted nothing more than to go to school and better their lives. But too many of them end up struggling to pay for an expensive education that did not give them the skills necessary to obtain meaningful employment.

On January 18, 2012, I filed a lawsuit against the for-profit college Westwood for engaging in deceptive practices that saddled Illinois students with up to $80,000.00 in debt for degrees that failed to qualify them for careers in criminal justice.

The lawsuit alleges that in marketing its criminal justice program, Westwood falsely represented to prospective students that they could pursue a law enforcement career with agencies such as the Chicago Police Department, Illinois State Police and suburban police departments, even though virtually all of those employers do not recognize a Westwood degree due to its lack of regional accreditation.

When enrolling prospective students, Westwood promised to help them get part-time jobs to assist with paying for their degrees. Westwood, however, failed to follow through with that commitment in any meaningful way. Westwood compounded these misrepresentations by downplaying the financial burden associated with obtaining a Westwood degree.
Many students learned only after graduation—and after racking up thousands of dollars in student loan debt—that their degrees would not land them the law enforcement jobs they originally sought. Additionally, because Westwood isn't recognized by regionally accredited colleges, students found they couldn't transfer their coursework to alternative programs to complete a degree. In short, many Westwood students are now burdened with debt loads as high as $80,000 and stuck with a degree that is neither marketable nor transferrable. Since we filed our lawsuit, more than 800 former and current students have come forward to complain about their experience at Westwood College.

Our lawsuit alleges that Westwood made misrepresentations regarding its regional accreditation status. Westwood is only nationally accredited. It is not—and never has been—regionally accredited. Because Westwood is only nationally accredited, coursework offered through Westwood's programs is not recognized by many regionally accredited institutions. Further, because of its lack of regional accreditation, degrees offered by Westwood are not recognized by many employers, particularly employers in the criminal justice field.

As alleged in my lawsuit, Westwood employees made verbal representations that Westwood is a regionally accredited institution to potential, current, and former Westwood students. Further, in spite of the lack of professional recognition of degrees that are not regionally accredited, Westwood made verbal representations to potential, current, and former students that students would be able to transfer their credits to other institutions that accept credits only from regionally accredited schools.

Westwood made verbal representations to potential, current, and former students that students would be able to obtain specific jobs in the criminal justice field. In fact, many of those employers do not recognize Westwood degrees because Westwood is not regionally accredited. Approximately 3,367 students have enrolled in Westwood's Criminal Justice Program from 2001 to 2011.

Additionally, Westwood made misleading verbal representations to potential, current, and former students with criminal records that they would be eligible for employment in the criminal justice field. Numerous students have reported that Westwood's faculty and staff told them that Westwood could expunge or seal students' criminal records; connect students with top employers who would disregard their criminal records; and that students would be able to secure jobs within the criminal justice field (such as being a police officer) despite their criminal records.

Westwood regularly promoted their Criminal Justice Programs through television and online ads promoting exciting criminal justice career opportunities with high paying salaries. The advertisements contained dramatic and repeated images of police officers investigating crime scenes and apprehending criminals. Further, Westwood engaged in deceptive Internet advertising that created the false impression that Westwood was regionally accredited and that Westwood's degrees were recognized by employers such as the Chicago Police Department and the Illinois State Police. As stated earlier, Westwood was in fact only nationally accredited and the Chicago Police Department and the Illinois State Police did not recognize Westwood' criminal justice degrees.

Not only were Westwood students generally unable to use their degrees to obtain employment in the field for which they trained, but Westwood is a very expensive education option as well. A three-year Bachelor's of Applied Science degree in criminal justice costs over $70,000 – and that is just the cost of tuition, not for room and board. Our investigation revealed that most students must take out student loans to finance their Westwood education. Every student we interviewed used student loans to pay their Westwood tuition. The average debt level of the students we interviewed is $55,000. Approximately 70% of those students had taken out private student loans, and 40% had financed part of their tuition with a Westwood APEX loan, which is Westwood's institutional loan that carries an 18% interest rate.

When prospective Westwood students met with financial aid officers, the students were generally presented with four different types of payment options: grants; federal loans; private loans; and APEX loans. Many students were simply told to sign the paperwork and that Westwood would take care of everything else. At least one student was told that she was approved for federal aid that would cover the entire cost of her degree, which Westwood told her would be approximately $56,000.00. But there are limits on the amount of federal aid a student can borrow for any given year based on various circumstances, and students have to reapply for financial aid annually. In other words, the student was not and could not have been approved for a single federal loan that covered the entire cost of her degree.

The same student was then advised to take a separate $10,000.00 private loan to cover additional unexpected expenses "just in case." Throughout her time at Westwood, the student was advised to take out two additional $10,000.00 "just in case" loans. The student was led to believe that these loans would be returned to the lender if not needed, which was simply untrue.

When the student graduated, she learned that she had not taken one $56,000.00 federal loan to cover the cost of her degree plus three additional loans that could be returned, as Westwood had led her to believe. Instead, she learned that she had taken multiple different loans with interest rates ranging from 2.9% to 11.9%, none of which could be returned. Her total debt at the time of graduating was $77,000.00, which would require her to pay $598.00 per month for the next 25 years.

My lawsuit also alleges that Westwood offered a private lending program called APEX. APEX was purportedly designed to finance the portion of a student's education not covered by grants, federal aid, or private loans. To enroll, a student must sign a contract and agree to pay some monthly amount – typically $150 – toward the balance while still in school. While the student is enrolled, the amount financed does not accrue any interest. But 90 days after the student graduates, interest begins to accrue on the unpaid amount at rates as high as 18%. Many students were confused about the purpose of these expensive loans. Some thought the loans were paying off other loans, such as their Sallie Mae loans. Others didn't even realize they had taken out the loans until after graduation.

Summary

Student debt poses a large and growing threat to the stability of our economy. Just as the housing crisis has trapped millions of borrowers in mortgages that are underwater, student debt could very well prevent millions of Americans from fully participating in the economy or ever achieving financial security. My Office will take the following actions to address some of the problems driving this impending crisis:

- The Illinois Attorney General's Office has aggressively pursued predatory mortgage lending and will continue its investigation of student lending practices at proprietary schools.

- We support permitting students to discharge private school debt in bankruptcy. Private loans carry none of the protections afforded to students who take out federal loans. Federal protections include: interest rate caps, loan limits, income-based repayment, deferment programs and cancellation rights. It is of particular concern that the private student loans originated prior to 2008 may have been written with little or no examination of the prospective student's ability to re-pay the loan.

- Staff from the Illinois Attorney General's Office is participating in the Department of Education (DOE) Negotiated Rulemaking Committee. The Committee is addressing issues including income-based repayment plans and circumstances surrounding rehabilitation of student loans in default.

Conclusion

Thank you for the opportunity to testify before the subcommittee today. As the chief consumer advocate for the state of Illinois, I am committed to working with my partners on the state and federal levels to implement real solutions to the student loan debt crisis. Moreover, I will continue to investigate and prosecute abuses in the proprietary school industry, for it is my belief that reforming the practices of proprietary schools is a necessary component of any effective solution.