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STATE OF COLORADO
DEPARTMENT OF LAW

January 1, 2023

The Honorable Judy Amabile (via email)
Chair, House Business Affairs and Labor Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Barbara McLachlan (via email)
Chair, House Education Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Lindsey Daugherty (via email)
Chair, House Health and Insurance Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Robert Rodriguez (via email)
Chair, Senate Busin., Labor, and Tech. Cmte.
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Janet Buckner (via email)
Chair, Senate Education Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

RE: Annual Report on the Colorado Student Loan Equity Act

Dear Chairpersons Amabile, McLachlan, Daugherty, Rodriguez, and Buckner:

In accordance with § 5-20-104(2), C.R.S. of the Colorado Student Loan Equity Act ("CSLEA"), I am pleased to submit the Administrator's annual report.¹ This annual report covers the period of January 1, 2022, to December 31, 2022, and follows the order set out in § 5-20-104(2)(a), C.R.S., for implementation, effectiveness, and additional steps.

I. Implementation

1. Licensing and registration

The CSLEA requires that on or after January 31, 2020, a person shall not act as a student loan servicer in Colorado without first obtaining a license from the Uniform Consumer Credit Code Administrator ("Administrator"). As of December 31, 2022, there

¹ Pursuant to § 24-1-136(9), C.R.S., this report shall be electronically filed with the Joint Legislative Library, for delivery and distribution to applicable legislators and legislative committees, and shall be made accessible to the public via the Department of Law website.

are 43 entities licensed as student loan servicers in Colorado. The Administrator made renewal applications available on December 20, 2022, and her team is currently responding to inquiries and processing applications in advance of the January 31, 2023, renewal deadline. The Administrator continues outreach to entities that may need to be licensed in Colorado.

The CSLEA further requires on or after September 1, 2021, a person shall not offer or make a private education loan to a resident of Colorado without first registering with the Administrator. Since September 1, 2022, 22 entities registered as private education lenders. The Administrator launched the statutorily required website with the list of schools, volume, default, officer and control person information, and model promissory notes in 2021. The Administrator's Office continues outreach to entities that may need to be registered in Colorado.

2. Rulemaking

The Administrator's office is preparing rulemaking to clarify the treatment of income share agreements under the Colorado Uniform Consumer Credit Code, § 5-1-101 et seq. and, where applicable, the CSLEA.

The Administrator's office held a stakeholder meeting on November 15, 2022, and the office received verbal and written stakeholder feedback.

3. Complaints

Between January 1, 2022, and December 28, 2022, the Consumer Credit Unit received 464 student loan servicer complaints. As of December 28, 2022, 412 have been closed. The volume of complaints received increased 125% since last year. This 125% increase in complaints comes after a 368% increase in complaints in 2022.

The Administrator's team investigates complaints, sends them out to student loan servicers for response where appropriate, and refers complaints to other agencies where appropriate. In addition, where appropriate, the Administrator's team provides consumer education materials in response to complaints, and to help student loan borrowers understand their rights and responsibilities under the terms of their loans. During 2022, all Colorado student loan borrowers who submitted complaints with the Consumer Credit Unit were provided with consumer education materials.

4. Outreach

Trainings and presentations: The Student Loan Ombudsperson (and members of the team) provided trainings to student loan borrowers interested in the limited Public Service Loan Forgiveness ("PSLF") waiver period. The PSLF waiver was a time-limited opportunity in which PSLF program rules were waived to allow borrowers to receive PSLF credit for past student loan payments that would not otherwise qualify for PSLF. The U.S. Department of Education announced the waiver on October 6, 2021, and the waiver period concluded on October 31, 2022.

In March, as part of Consumer Protection Month, the Attorney General gave remarks at an event with the Student Borrower Protection Center at a virtual town hall. The townhall focused on the PSLF limited waiver and provided advice to public servants navigating the PSLF program.

The Student Loan Ombudsperson spoke on the MoneyTalks 50+ Podcast about the PSLF limited waiver.²

The Student Loan team held a series of additional virtual and in-person presentations on the PSLF waiver to public servants who could benefit from the waiver. In total over 1,000 individuals attended these presentations live. Many of these presentations were also recorded and distributed, thereby reaching numerous other viewers. These organizations include:

- the Colorado Department of Revenue;
- the Colorado Department of Law (three sessions);
- the monthly meeting of human resource directors for all Colorado state agencies
- Aspen Academy;
- the Attorney General's Community Collaboration Meeting;
- Educa Presentation (Spanish language);
- MoneyWi\$er Financial Literacy Training (two sessions);
- University of Denver Alumni Association for Schools of Social Work and Psychology (four sessions);
- the Colorado Bar Association (three sessions);
- the Department of Local Affairs; and
- the Community College Default Prevention Group.

5. Advocacy

Multistate letters:

In March, the Attorney General joined a multistate letter of state attorneys general sent to the National Council for State Authorization Reciprocity Agreements (“NC-SARA”). The letter asked NC-SARA to make its policy modification process as fair and transparent as possible and to adopt policy changes that will provide additional consumer protections in distance learning. Also in March, the Attorney General wrote to the U.S. Attorney for the District of Colorado to encourage the U.S. Attorney’s Office to carefully consider the federal student loan bankruptcy cases it litigates, and grant borrowers facing “undue hardship” the grace promised to them in the bankruptcy code.

In March, the Administrator led a state regulator letter in response to the Request for Information on the next step for the Next Gen Initiative issued by U.S. Department of Education (“DoEd”). The letter asked DoEd to ensure future contracts procured through the NextGen Initiative are carefully drafted to avoid undermining state supervision of the private companies that service federal student loans.

In July, the Attorney General joined a multistate letter of state attorneys general requesting President Biden and DoEd Secretary Cardona to take additional actions to address the pervasive misconduct of federal student loan servicers and help public service workers access the PSLF benefits committed to them in federal law.

Also in July, the Ombudsperson joined a letter of state student loan ombudspersons and advocates, supporting federal efforts to improve the PSLF program, while asking the

² In addition, the Denver Post quoted the Ombudsperson in a news story drawing attention pending end of the PSLF waiver.

Administration to extend the Limited PSLF Waiver. The letter also asked the Administration to take other actions to ensure borrowers have to opportunity to participate in programs currently offered to remedy ongoing problems with federal student loan programs.

In November, the Attorney General joined an amicus brief with 23 state attorneys general in *Consumer Financial Protection Bureau v. National Collegiate Master Student Loan Trusts, et. al.*, No. 22-1863 (3rd Cir.). The brief asked the Third Circuit Court of Appeals to affirm that student loan trusts are covered persons subject to the prohibition on unfair debt collection practices under the Dodd-Frank Act and confirm that the Consumer Financial Protection Bureau may enforce the Act against these trusts.

Navient: In January 2022, the Attorney General announced a settlement with Navient, one of the nation's largest student loan servicers. The settlement provides over \$35 million in debt cancellations to 1,339 Colorado student loan borrowers and restitution payments to nearly 7,000 borrowers. This settlement was part of a \$1.85 billion nationwide settlement joined by 39 state attorney generals that resolved claims that Navient steered struggling student loan borrowers into costly long-term forbearances rather than leading them toward more affordable payment plans.

Loan Forgiveness and Borrower Defense Advocacy

ITT Tech: In August 2022, the DoEd announced forgiveness of \$3.9 billion in federal student loans for 208,000 ITT Tech students, including nearly \$46 million in forgiveness for 2,440 Colorado borrowers. Last year, the Attorney General led a coalition of state attorney generals in a group Borrower Defense application on behalf of ITT Tech ("ITT") students. The application alleged that ITT defrauded students by encouraging them to enroll and take out loans based on false information about the value of an ITT degree. Relying in part of Colorado's submission of evidence, ED found that ITT misrepresented the value of its education, claiming students would secure high-paying jobs upon graduation with constant wage growth potential.

Westwood College: In August 2020, the Attorney General submitted a Borrower Defense group application to the DoEd on behalf of more than 22,0000 students who attended Colorado-based Westwood College between 2002 and 2015. The application is largely based on the Attorney General's investigation into Westwood's misrepresentations of employment and salary prospects, transferability of credits, and its private institutional loan.

In August 2022, DoEd announced forgiveness of approximately \$1.5 billion in federal student loans for more than 79,000 Westwood College students nationwide. This forgiveness included over \$107 million for 5,440 Colorado borrowers. Again, relying in part on Colorado submission of evidence, DoEd found that all of Westwood's campuses significantly overstated the employment and salary prospects of graduates, and the transferability of credits.

Effectiveness

Section 5-20-104(2)(a)(II), C.R.S. requires the Administrator to provide an assessment of the overall effectiveness of the Student Loan Ombudsperson. The Student Loan Ombudsperson and the Administrator's team regularly collaborate with their counterparts in other states, meet with consumer advocacy organizations focused on

student loan issues, attend industry conferences and trainings, and remain informed of products and services that impact student loan borrowers. Colorado plays a leadership role, including, for example, in litigation and contributing to multistate letters and comments. The Administrator's assessment is that the role of Student Loan Ombudsperson is effective and provides an important public service to Colorado student loan borrowers.

Additional Steps

Section 5-20-104(2)(a)(II), C.R.S. requires recommendations regarding additional steps for the Administrator pertaining to regulatory control over licensing and enforcement with respect to student loan servicers. The CSLEA's deadline for licensure for student loan servicers was January 31, 2020, and the deadline for registration for private education lenders was September 1, 2021. Following the licensure deadline, the Administrator began conducting examinations for compliance with the CSLEA. The Administrator will continue to examine and investigate student loan servicers and private education lenders pursuant to the CSLEA's mandate. The Administrator also continues outreach to entities who may need to be licensed or registered under the CSLEA.

Thank you for the opportunity to submit this report on the Department of Law's implementation of the CSLEA. Should you have questions, please feel free to contact Jeff Riester, Assistant Attorney General and Director of Legislative Affairs, Department of Law at jefferey.riester@state.co.us.

Respectfully submitted,

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Colorado Department of Law
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