

05-2-04639-8 22796879 AMCPT 03-30-05

FILED
IN COUNTY CLERK'S OFFICE

A.M. MAR 29 2005 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, COUNTY CLERK
BY _____ DEPUTY

3
4
5
6
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF PIERCE

9 JOANNE BLACK, SHYLA MARTINEZ,
10 ROBERT CERKA, PIPER SLOAN,
11 DESHANE NAPUTI; AND KRIS
12 KIDWELL; each individually and on
13 behalf of all others similarly situated,

Plaintiffs,

v.

14 KILLEBREW/DALTON, INC., d/b/a as
15 CROWN COLLEGE; JOHN WABLE and
16 JANE DOE WABLE, husband and wife;
17 and DOES 1 through 30,

Defendants.

) NO. 05-2-04639-8
)
) FIRST AMENDED CLASS ACTION
) COMPLAINT FOR VIOLATION OF
) CONSUMER PROTECTION ACT; FRAUD
) AND MISREPRESENTATION;
) BREACH OF CONTRACT; BREACH OF
) DUTY TO DISCLOSE; VIOLATION OF
) FALSE ADVERTISING ACT; VIOLATION
) OF CRIMINAL PROFITEERING ACT
)
) Hon. Linda CJ. Lee
) Dept. 19
)
)
)
)
)
)

18
19
20 The Plaintiffs allege as follows:

21 **I. PARTIES**

22 1. Defendant Killebrew/Dalton, Inc. is, and at all times mentioned herein, a
23 corporation incorporated in the State of Washington which does business as Crown
24 College, a private, post-secondary educational institution which is located 8739
25 South Hosmer, Tacoma, Washington in Pierce County, Washington.
26

**FIRST AMENDED CLASS ACTION
SUIT FOR DAMAGES - 1**

LUNDAHL LAW
902 South 10th Street
Tacoma, WA 98405-3425
(253) 272-2206

ORIGINAL

1 2. Defendants John Wable and Jane Doe Wable, husband and wife, at all
2 times mentioned herein are residents of King County, hereinafter the Wables.

3 3. Defendants John Wable and Jane Doe Wable, husband and wife, had
4 formed their marital community as husband and wife and all acts alleged herein of
5 defendant John Wable were done for and on behalf of that marital community.

6 4. Plaintiff Joanne Black, at all times relevant herein, was a resident of King
7 County.

8 5. Plaintiff Robert Cerka, at all times relevant herein, was a resident of
9 Pierce County.

10 6. Plaintiff Piper Sloan, at all times relevant herein, was a resident of Pierce
11 County.

12 7. Plaintiff Shyla Martinez, at all times relevant herein, was a resident of
13 King County.

14 8. Plaintiff Kid Kidwell, at all times relevant herein, was a resident of Pierce
15 County.

16 9. Plaintiff DeShane Naputi, at all times relevant herein, was a resident of
17 Pierce County.

18 **II. JURISDICTION AND VENUE**

19 10. This Court has jurisdiction over the parties and the subject matter of this
20 action.

21 11. All of the events which are the subject of this complaint occurred in
22 Pierce County and defendants conduct business in Pierce County. Consequently,
23 venue is proper in Pierce County pursuant to RCW 4.12.025.
24
25
26

III. FACTUAL ALLEGATIONS

1
2 12. Plaintiffs and members of the class allege that Killebrew/Dalton, Inc. is
3 the alter ego of John Wable.

4 13. John Wable is the sole shareholder and officer of defendant
5 Killebrew/Dalton, Inc. which does business as Crown College.

6 14. John Wable has dominated and controlled the operations of
7 Killebrew/Dalton, Inc. from its incorporation.

8 15. John Wable has unjustly abused his control of Killebrew/Dalton, Inc. in a
9 manner that has caused Killebrew/Dalton, Inc. to fail to perform duties owed to the
10 Plaintiffs and class members.

11 16. John Wable has commingled his personal funds with those of
12 Killebrew/Dalton, Inc.

13 17. John Wable's abuse of his control of Killebrew/Dalton, Inc. has caused
14 the Plaintiffs and the class members to suffer damages and thus his actions make
15 him personally responsible to Plaintiffs and the class for damages suffered.

16 18. Crown College offers courses in Paralegal Studies, Public Administration
17 and Criminal Justice that lead to 2 year or 4 year degrees.

18 19. Crown offers many of its classes on-line in what they termed a "Cloud
19 Room" which is a "virtual" classroom where students are linked, in real time, to the
20 instructor and other students via the internet or at computers in Crown's facilities.

21 20. Crown is accredited by the Accrediting Commission of Career Schools
22 and Colleges of Technology ("ACCSCCT") which accredits vocational schools and
23 Crown grants its degrees under the auspices of ACCSCCT and not under the auspices
24 of the Washington State's Higher Education Coordinating Board ("HECB").
25
26

1 21. Crown is not accredited by the Northwest Commission on Universities
2 and Colleges which is a member of the six regional accrediting agencies, thus Crown
3 is not regionally accredited.

4 22. Regional accreditation is critical to a post-secondary educational
5 institution having its credits and degrees accepted by other post-secondary
6 educational institutions. Additionally, it is reflective of the quality, or lack thereof,
7 of an institution's educational curriculum, teaching staff and facilities.

8 23. Crown's lack of regional accreditation means that the vast majority of
9 local and national regionally accredited colleges and universities, which include
10 every major university, college and law school in the United States, will not accept
11 most Crown credits for transfer nor recognize a Crown Associate or Bachelor's
12 degree for entry into its Bachelor's and Graduate programs.

13 24. Crown's educational curriculum was inferior to that of a regionally
14 accredited college in that many courses that were essential for preparing Plaintiffs
15 and the members of the class for work in the fields they were studying to enter
16 were not offered, poorly designed or incomplete.

17 25. Crown's faculty was inferior to that of a regionally accredited college in
18 that it was plagued by high turnover and composed of many teachers who did not
19 have the proper training and/or educational background to properly teach the
20 courses which were offered.

21 26. Crown's facilities were inferior to that of a regionally accredited college,
22 specifically, their internet infrastructure, which was a critical component of the
23 school since most of the classes were taught over the internet. The sound quality
24 was so poor that approximately 30% of the time students were not able to hear the
25 teachers or other students and were thus deprived of instruction.

1 27. The problems with the sound system are long standing and when
2 Plaintiffs and the members of the class complained about the sound quality, Crown
3 failed to do anything to remedy the situation.

4 28. On numerous occasions technical difficulties caused class sessions to be
5 canceled completely and many of these classes were not made up.

6 29. During the period set forth in the class definition, Crown College held
7 itself out as an academic institution on par with regionally accredited institutions
8 instead of a vocational school, despite the fact that it lacked regional accreditation
9 and its educational curriculum, faculty and facilities were not on par with that of a
10 regionally accredited institution.

11 30. Crown conspired to hide, minimize or deny its lack of regional
12 accreditation and the negative impact that fact had on a Crown education from
13 prospective students, including Plaintiffs and the class members.

14 31. Plaintiffs and the class, on information and belief, allege that the
15 purpose of Crown's subterfuge concerning its accreditation was to attract students
16 willing to pay tuition rates that were higher than most vocational institutions
17 charged.

18 32. Plaintiffs and the class, on information and belief, allege that another
19 purpose of Crown's subterfuge concerning its accreditation status was that certain
20 loan and retraining programs required that the school that participants in the
21 program attend a school that was regionally accredited.

22 33. Crown's modus operandi for doing business with plaintiffs and the class
23 was: (1) Having admission counselors and other administrative staff who came into
24 contact with the Plaintiff and the class members, represent, among other things,
25 that (a) Crown's "national" accreditation from ACCSCT was tantamount to or better
26

1 than regional accreditation; (b) that credits earned at Crown would be transferable
2 to other schools including regionally accredited schools; (c) that Associate and
3 Bachelor degrees earned at Crown would be recognized and accepted for entry into
4 regionally accredited 4 year schools or graduate schools, respectively (d) that
5 Crown was regionally accredited; (e) that Crown had an extremely high alumni
6 placement rate ranging as high as 97% and that Crown had excellent placement
7 services; and/or (f) that Crown's education staff and facilities were top notch.

8 34. Additionally, Crown advertised itself on the internet as being "fully
9 accredited" which was understood to mean regionally accredited, thereby deceiving
10 plaintiffs and the class into believing that Crown was indeed regionally accredited.

11 35. After Plaintiffs and the class members were enrolled in Crown, Crown
12 staff continued to represent to Plaintiffs and members of the class that its credits
13 and/or degrees were transferable to or recognized by regionally accredited schools.

14 36. The aforementioned misrepresentations, misleading advertising and
15 failures to disclose, were made with the express purpose of inducing Plaintiffs and
16 the class members to enter into contracts to attend Crown.

17 37. Crown owed a duty to Plaintiffs and the class members to fully disclose
18 Crown's accreditation status and the fact that its credits and degrees would not be
19 accepted by, transferable to or recognized by most regionally accredited schools
20 and universities and Crown breached that duty.

21 38. The representations referred to in paragraph 37 above were false,
22 evidenced a reckless disregard for the truth, and were material to the contract
23 between Plaintiffs and each member of the class.

1 39. Crown knew that the aforementioned representations were false, knew
2 that Plaintiffs and the class were ignorant of the falseness of them and made them
3 with the purpose of inducing reliance upon them.

4 40. Plaintiffs and the class members reasonably relied on Defendants'
5 representations in entering contracts to attend Crown and such reliance has caused
6 them monetary and emotional damages, including, but not limited to, emotional
7 distress, tuition, books, fees, lost income from employment they left to attend
8 Crown, interest on loans, transportation costs and other damages which will be
9 proved at trial.

10 **IV. CLASS ACTION ALLEGATIONS**

11 41. This is a class action based on the following proposed class definition:

12 From January 1, 1999 to the date this matter is certified, all persons who
13 decided to attend Crown College, based on Crown College staff's misrepresentations
14 and omissions of material facts, including: (1) Crown was "fully accredited" or had
15 regional accreditation; (2) Credits and/or degrees earned at Crown would be readily
16 accepted for transfer to or accepted by regionally accredited colleges and
17 universities; (3) Crown's educational facilities, teaching staff and facilities were
18 excellent and on par with regionally accredited schools; or (4) Crown's had an
19 alumni placement rate of 80% to 97% and provided excellent alumni placement
20 services.

21 42. Pursuant to Civil Rule ("CR") 23, Plaintiffs bring this action on behalf of
22 themselves and the class as defined in paragraph 1 above.

23 43. The class is so numerous that joinder of all members is impractical. The
24 class potentially includes 500 or more.

1 44. Plaintiffs are class members and their individual claims are typical of the
2 claims of the various class members. All class members were induced into
3 enrolling in Crown based either on Crown's deceptive advertising and/or Crown's
4 misrepresentations and omissions regarding its accreditation, the transferability of
5 its credits and/or recognition of its degrees by regionally accredited schools and the
6 quality of its teaching staff, curriculum, placement record and facilities. Plaintiffs
7 will fairly and adequately protect all class members. Plaintiffs have interests that
8 are not antagonistic to, or in conflict with, those interests Plaintiffs seek to
9 represent as class representatives.

10 45. Questions of law and fact that are common to the class with respect to
11 their claims against Defendants predominate over any questions relating solely to
12 individual class members. Amongst such common questions of law and fact are:

- 13 (a) Whether Crown made negligent and/or intentional misrepresentations
14 to Plaintiffs and class members concerning its accreditation status, the
15 transferability of its credits or degrees to regionally accredited schools,
16 and the quality of its curriculum, faculty, placement record and services
17 and/or facilities.
- 18 (b) Whether Crown owed Plaintiffs and the members of the class a duty to
19 disclose the fact that though it had ACCTS accreditation, it did not have
20 regional accreditation.
- 21 (c) Whether Crown fraudulently induced Plaintiffs and class members to
22 enter into contracts to attend Crown;
- 23 (d) Whether Crown's misrepresentations, acts and omissions, constitute
24 unfair and deceptive acts or practices in the conduct of trade or
25 commerce which affect the public interest and caused injury to
26

1 Plaintiffs' and each class member's property and as such violate
2 RCW 19.86.020 et seq.

3 (e) Whether Crown's advertising constitutes false advertising as defined by
4 RCW 9.04.050.

5 (f) A class action is an appropriate method for the fair and efficient
6 adjudication of the controversy, given that Common questions of law or
7 fact predominate over any individual questions that may arise, such
8 that there would be enormous economies to the court and the parties in
9 litigating the common issues on a class-wide instead of a repetitive
10 individual basis.

11 (g) Class treatment is required for optimal deterrence and compensation
12 and for limiting legal expenses incurred by class members.

13 (h) Plaintiffs estimate that the average size of the class members' claims is
14 under \$40,000. Despite the relatively small size of individual class
15 members' claims, their aggregate volume, coupled with the economies
16 of scale inherent in litigating similar claims on a common basis, will
17 enable this case to be litigated as a class action on a cost-effective
18 basis, especially when compared with repetitive individual litigation.

19 (i) Though there are various causes of action and theories of recovery,
20 they all stem from the same pattern of deception which Crown
21 employed with all the plaintiffs and class members. Thus no unusual
22 difficulties are likely to be encountered in management of this action as
23 a class action in that all questions of law or fact to be litigated at the
24 liability state are common to the class, and,
25
26

1 (j) Class certification is fair and effective because prosecution of separate
2 actions would create a risk of adjudications with respect to individual
3 class members, which as a practical matter may be dispositive of the
4 interests of other members not parties to the adjudication, or may
5 substantially impair or impede their ability to protect their interests.

6 46. Accordingly, the proposed class fulfills the certification criteria of CR
7 23(a)(1)-(4), and the certification of the above-defined class is appropriate under
8 one or more of the provisions of CR 23(b).

9 **V. CAUSES OF ACTION**

10 **First Cause of Action**

11 **Violation of Consumer Protection Act (RCW 19.86)**

12 47. Plaintiffs and the class members reallege the allegations in paragraph 1
13 through 46, herein.

14 48. The acts and misrepresentations of Crown were unfair and deceptive acts
15 or practices in the conduct of trade or commerce which affect the public interest
16 and which caused injury to Plaintiffs' and the class members' property. As such
17 Crown's conduct violated RCW 19.86.020.

18 49. Plaintiff and the class members have suffered damages as a result
19 thereof.

20 **Second Cause of Action**

21 **Fraud and Misrepresentation**

22 50. Plaintiffs and class members reallege the allegations in paragraph 1
23 through 46, herein.

1 51. Crown made representations of material facts regarding Crown College
2 including, but not limited to, its accreditation, its curriculum, facilities and staff, to
3 Plaintiffs and the class members knowing that these representations were false.

4 52. Crown's false and misleading representations were made by Crown
5 negligently, intentionally and recklessly with the express intent of inducing Plaintiffs
6 and the members of the class to act in reasonable reliance on such statements and
7 enroll in Crown College.

8 53. As a result of Plaintiffs and the members of the class's reasonable
9 reliance on Crown's negligent, intentional and reckless misrepresentations,
10 Plaintiffs, and the class members, have suffered consequential and special
11 damages.

12 **Third Cause of Action**

13 **Breach of Contract**

14 54. Plaintiffs and the class members reallege the allegations in paragraph 1
15 through 46, herein.

16 55. Plaintiffs and members of the class entered into a contract for education
17 with Crown based on oral representations in addition to a written contract. Under
18 this contract, Crown agreed to provide Plaintiffs and the class members with quality
19 facilities, curriculum, faculty and placement services.

20 56. Additionally, Crown agreed to provide them with credits which would be
21 transferable to a majority of other schools, including regionally accredited schools.

22 57. Additionally, Crown agreed to provide them with AA and/or BA degrees
23 which would be recognized by a majority of 4 year and/or graduate schools.

24 58. The failure of Crown to provide Plaintiffs and the class members with
25 quality facilities, curriculum, faculty and placement services in addition to credits
26

1 which would transfer and degrees that would be recognized constituted a breach of
2 contract.

3 59. As a result of this breach, Plaintiffs and the class members have
4 sustained contract, incidental and consequential damages, in amounts to be proven
5 at trial.

6 **Fourth Cause of Action**

7 **Failure to Disclose**

8 60. Plaintiffs and the class members reallege the allegations in paragraph 1
9 through 46, herein.

10 61. Crown breached its duty to disclose material facts about Crown's
11 accreditation status, the fact that its credits would not transfer to most regionally
12 accredited colleges and universities, and/or the fact that its AA and BA degrees
13 would not be recognized by most accredited colleges, universities, graduate and
14 professional schools, to prospective students including Plaintiffs and the class
15 members.

16 62. Crown breached that duty and Plaintiffs and the class members suffered
17 incidental and consequential damages, in amounts to be proven at trial.

18 **Fifth Cause of Action**

19 **Violation of False Advertising Act (RCW 9.04.050)**

20 63. Plaintiffs and the class members reallege the allegations in paragraph 1
21 through 46, herein.

22 64. The acts and representations of Defendant Crown and its agents,
23 representatives and employees constituted violations of RCW 9.04.050 (the False
24 Advertising Act).

1 **Sixth Cause of Action**

2 **Criminal Profiteering Act**

3 65. Plaintiffs and the members of the class reallege paragraphs 1 through 46.

4 66. Crown engaged in a pattern of criminal profiteering activity in violation of
5 RCW 9A.82.100.

6 67. Plaintiffs and the class members were injured as a result of said acts of
7 criminal profiteering.

8 68. As a result of thereof, Plaintiffs and the members of the class have
9 sustained general and specific damages.

10 **VI. RESERVATION OF RIGHTS**

11 69. Plaintiffs reserve the right to assert additional claims and add additional
12 parties and/or subclasses as may be appropriate following further investigation and
13 discovery in this action.

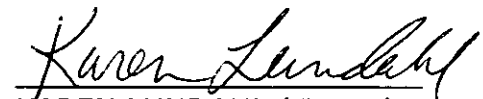
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs and class members pray the Court enter judgment as
16 follows:

- 17 (a) That the Court certify the class as described herein under CR 23, and
18 appropriate subclasses, if any;
- 19 (b) That the Court issue a ruling finding that due to John Wable's conduct,
20 the corporate entity is disregarded and that he be deemed personally
21 liable for all of the actions herein alleged;
- 22 (c) That the Court award Plaintiffs and the class members money damages
23 according to proof at trial;
- 24 (d) That the Court award Plaintiffs and the class members damages for
25 emotional distress according to proof at trial;
- 26

- 1 (e) That the Court award the Plaintiffs and the class punitive damages up
2 to three times actual damages up to \$10,000 pursuant to
3 RCW 19.86.090;
- 4 (f) That the Court issue an injunction enjoining Defendants from continuing
5 the misrepresentations complained of herein pursuant to RCW
6 19.86.095;
- 7 (g) That the court award the class pre- and post-judgment interest and
8 costs of suit; and
- 9 (h) That the Court award Plaintiffs and the class members reasonable
10 attorney fees and costs pursuant to RCW 19.86.090.

11 **LUNDAHL LAW**

12 

13 KAREN LUNDAHL (#8746)
14 Attorney for Plaintiffs
15 902 South 10th Street
16 Tacoma, WA 98405-4537