

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
ITT EDUCATIONAL SERVICES, INC., *et al.*¹) Case No. 16-07207-JMC-7A
)
Debtors.) Jointly Administered

**NOTICE TO ITT STUDENTS REGARDING
SHARING OF EDUCATION RECORDS AND OTHER INFORMATION**

Deborah J. Caruso, the trustee (the “Trustee”) appointed in the chapter 7 cases of ITT Education Services, Inc. (“ITT”), *et al.* (together with ITT, the “Debtors”), is providing this notice to ITT’s former students who filed proofs of claim in connection with ITT’s pending bankruptcy case.

Background

Prior to ITT’s bankruptcy, on February 26, 2014, the Consumer Financial Protection Bureau (the “CFPB”) filed a complaint against ITT in the United States District Court for the Southern District of Indiana (the “District Court”). Thereafter, the District Court entered a protective order governing the use and disclosure of certain documents and information designated as confidential, private, and proprietary exchanged in connection with the CFPB’s lawsuit relating to ITT, its current and former employees and students, and other third parties (the “Confidential Information”) and establishing procedures for disclosing materials designated as confidential pursuant to such order.

The Modified Protective Order

In order to allow the CFPB to retain and share any documents and information provided to it by ITT, or by the Trustee for ITT, with state or federal government agencies, ITT’s former students, and counsel acting on their behalf (the “Investigating Parties”) for purposes of public consumer protection investigations and actions, student claims, and defenses to repayment of federal and private loans, subject to applicable law and federal recordkeeping requirements, the CFPB and Trustee seek to have a modified protective order entered by the District Court (the “Modified Protective Order”).

Under the Family Educational Rights and Privacy Act (“FERPA”), a federal law relating to education records, any materials containing education records that the CFPB seeks to share is

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers, are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

confidential and, subject to certain exceptions, cannot be disclosed without the permission of the person to whom the information concerns. One of those exceptions provides that educational information that is protected by FERPA may be disclosed in order to comply with a judicial order, such as the Modified Protective Order.

The purpose of this notice is to inform you that the Modified Protective Order would permit the CFPB to share Confidential Information with the Investigating Parties, which may contain some of your educational and financial records and related information, and to use those records and information for purposes of public consumer protection investigations and actions, student claims, and defenses to repayment of federal and private loans.

The Confidential Information that the CFPB seeks to share may include financial aid records as well as personally identifiable information. The CFPB and the Investigating Parties must appropriately redact personal identifying information from those records prior to using them in a public action. Accordingly, any Confidential Information shared by the CFPB with the Investigating Parties will not be used or disclosed in any public filing or forum unless such information is redacted, thereby protecting the information from public disclosure.

The Bankruptcy Court Order

The United States Bankruptcy Court for the Southern District of Indiana (the “Bankruptcy Court”) has entered an order (the “Bankruptcy Court Order”) authorizing the Trustee to (a) publish this notice on the Debtors’ case management site maintained by Rust Omni, available at <http://omnimgt.com/itt/>, and ITT’s main website, available at <http://itt-tech.info/>, and (b) serve this notice on ITT’s former students who filed proofs of claim in ITT’s bankruptcy case, including you. The Bankruptcy Court has determined the foregoing efforts constitute a reasonable effort to notify ITT’s former students of the limited nature of the sharing of Confidential Information.

Upon the expiration of thirty (30) days after publication of this notice, unless an objection is received by the Trustee, at the address set forth below, pursuant to the Bankruptcy Court Order, the Trustee (a) is authorized to agree with the CFPB to entry of the Modified Protective Order in the CFPB’s lawsuit against ITT, and (b) shall be deemed to have complied with her and the estates’ obligations under FERPA (pursuant to the judicial order exception noted above), and the Trustee and the estates shall have no obligation to monitor or participate with the CFPB’s sharing of documents and information with Investigating Parties, pursuant to the Modified Protective Order or otherwise.

If an objection is received by the Trustee, at the address set forth below, the Trustee will notify the Court, and the Court will hold a further hearing to determine the Trustee’s authorization to agree to the Modified Protective Order on January 10, 2018 at 1:30 p.m. (prevailing Eastern time).

Questions and Objections

Questions concerning this notice or the matters described herein, and objections, if any and in writing, should be directed to the Trustee (and not the Bankruptcy Court) at:

Deborah J. Caruso
Office of Deborah J. Caruso
135 N. Pennsylvania St
Suite 1400
Indianapolis, IN 46204
Tel.: (317) 634-0300

so as to be received by **no later than December 29, 2017.**

Dated: November 29, 2017
Indianapolis, Indiana

/s/ Jeff J. Marwil

Jeff J. Marwil
Peter J. Young
Jeremy D. Webb
PROSKAUER ROSE LLP
70 West Madison, Suite 3800
Chicago, Illinois 60602-4342
Telephone: (312) 962-3550
Facsimile: (312) 962-3551

–and–

Timothy Q. Karcher
Michael T. Mervis
Jared D. Zajac
Russell T. Gorkin
PROSKAUER ROSE LLP
Eleven Times Square
New York, New York 10036
Telephone: (212) 969-3000
Facsimile: (212) 969-2900

Co-counsel to the Trustee

/s/ Deborah J. Caruso

Deborah J. Caruso (Atty. No. 4273-49)
John C. Hoard (Atty. No. 8024-49)
James E. Rossow Jr. (Atty. No. 21063-29)
Meredith R. Theisen (Atty. No. 28804-49)
RUBIN & LEVIN, P.C.
135 N. Pennsylvania Street, Suite 1400
Indianapolis, Indiana 46204
Telephone: (317) 634-0300
Facsimile: (317) 263-9411

Co-counsel to the Trustee