



June 30, 2022

Richard Cordray
U.S. Department of Education
Office of Federal Student Aid
400 Maryland Avenue, S.W.
Washington, D.C. 20202

VIA EMAIL CORRESPONDENCE

RE: Enforcement Referral and Group Discharge Application: Make School/Dominican University Incubator

To Chief Operating Officer Cordray and to Whom It May Concern:

I write on behalf of a group of students and their parents who borrowed Direct Loans to attend the Dominican University of California (“Dominican”) as part of its partnership with Make School, Inc. (“Make School”). Under the terms of the Master Promissory Note (“MPN”)¹ and regulations of the Department of Education (“Department”), these students are entitled to assert a defense to repayment of their loans because of the unlawful conduct of Dominican, through its partner Make School.² Some of these students are also eligible for closed school discharge because Make School is a closed branch of Dominican. Additionally, all students’ Pell Eligibility should be restored, through whatever mechanism the Secretary deems appropriate.

In the alternative, we urge the Secretary of Education (“Secretary”) to use his modification authority to grant all students who attended the Make School-Dominican incubator a full federal loan discharge to effectuate the purpose of the protections against school fraud and school closures codified in the Higher Education Act (“HEA”). 20 U.S.C. § 1082(a)(4); 20 U.S.C. § 1087(c)(1).

Furthermore, we urge the Department to immediately act on evidence that Dominican may have engaged in violations of its Program Participation Agreement (“PPA”) with the Department in its partnership with Make School.³

¹ Master Promissory Note for Direct Subsidized Loans and Direct Unsubsidized Loans (expires July 31, 2022), at 13, <https://fsapartners.ed.gov/sites/default/files/attachments/2020-04/SubUnsubMPN.pdf>.

² 34 C.F.R. §§ 685.222(b)-(d); 34 C.F.R. § 685.222(h). For students whose loans were disbursed on or after July 1, 2020, there is no group process per 34 C.F.R. § 685.206(e). Nevertheless, the Department should consider proactively identifying this group of students, or discharging their loans through the other mechanisms outlined in this letter.

³ Additionally, the Department should consider referring the matter to the Department of Justice to determine whether Dominican is liable under the False Claims Act. See Sabita J. Sonejje, *Stamping out Fraud in Higher Education through the False Claims Act: “Material” Should Mean Something*, the Student Borrower Protection



I. **Background Facts**

1. *Make School and Dominican forged a relationship under the aegis of Dominican's accreditor*

Dominican, an accredited private non-profit university based in Northern California, entered into a partnership with Make School, an unaccredited two-year for-profit coding program in November 2019. The two schools partnered through an incubator program overseen by Dominican's accreditor, the Accrediting Commission for Schools, Western Association of Schools and Colleges ("ACS WASC").⁴ The incubator relationship ended in July 2021, when Make School abruptly closed following an ongoing lawsuit filed by former students that alleged widespread deceptive and misleading practices by the school.⁵ Students who could not afford the move to Dominican's San Rafael campus or could not cover the cost of school through federal loans had to withdraw from the program, and many students were unable to earn a degree as a result.

Through the incubator relationship, students who completed the two-year Make School program would eventually obtain a Bachelor of Science in computer programming from Dominican.⁶ These incubator students primarily received instruction in computer coding from Make School instructors and also received instruction in general education from Dominican instructors, all on-site at the Make School campus in San Francisco or online. Dominican students could take classes at Make School to obtain a minor in computer science.⁷

As detailed in our parallel report,⁸ Make School—and by extension its relationship with Dominican—operated under several different guises. From the outset, Make School was simply a for-profit college operating without approval in California. In aligning itself with Dominican, Make School assumed several different roles, and all without adhering to the relevant regulatory standards. In one permutation, Make School operated as a branch of Dominican. In another, Make School acted as a third-party servicer to Dominican in managing and issuing federal student aid to students. And in yet another, Make School was a private education loan lender issuing and servicing loans to Dominican students. Make

Center (Oct. 21, 2019), <https://protectborrowers.org/stamping-out-fraud-in-higher-education-through-the-false-claims-act-material-should-mean-something/>.

⁴ For further on WASC's incubation program see Exhibit B at 57-59; *WSCUC Incubation Policy: Supporting Creative Partnerships That Benefit Students*, WSCUC (May 31, 2019), <https://www.wscuc.org/post/wscuc-incubation-policy-supports/> [<https://perma.cc/YR8V-749H>].

⁵ *Aguocha, et. al. v MakeSchool, Inc.*, Case no. CGC-21-592710 (Cal. Sup. Ct., June 25, 2021); Exhibit B.

⁶ Exhibit J; also available at *Frequently Asked Questions*, Make School, <https://web.archive.org/web/20190403055151/https://www.makeschool.com/computer-science/faq>.

⁷ Natalie Schwartz, *How a College and Coding School are Partnering to ring New Courses to Campus*, Higher Ed Dive (May 29, 2019), <https://www.highereddive.com/news/how-one-college-is-partnering-with-a-coding-school-to-bring-new-courses-to/555718/>; Exhibit B at 90 (DUC_00001).

⁸ Claire Torchiana, *Selling Out Students: a Case Study in Brand-Name Schools Partnering with For-Profit Scammers to Make a Buck*, the Student Borrower Protection Center (July 2022).



School, and Dominican as its partner, assumed these roles with the apparent blessing of WASC, and with seemingly no meaningful oversight from the Department or state regulators.

2. *Students took out federal loans to attend the Make School/Dominican Incubator Program*

To finance attendance at the incubator, students were encouraged to take out Income Share Agreements (“ISAs”)⁹ issued by Make School, in addition to borrowing federal student loans through Dominican.¹⁰ Students and their parents who were participating in the incubator were told by Make School administrators starting around November 2019 to apply for Title IV aid using Dominican’s school code, including for grants and federal loans.¹¹ It appears that federal student loans and grants were disbursed to this group of students primarily after July 1, 2020, though some students may have received federal disbursements before then. Most incubator students’ federal loans and grants during the period of the incubator (November 2019-July 2021) were disbursed for the Dominican University of California (OPEID 00119600), though some students’ grants are listed as having been disbursed for the “Dominican University of California - The Make School” (OPEID 00119613), apparently a branch of Dominican.¹² Neither institution is listed as closed in the Department’s data.

3. *Make School and Dominican lied to students*

i. *Make School and Dominican, as its partner, misrepresented the quality of its educational services and job outcomes*

Former students allege that Make School engaged in a series of deceptions regarding the value of its educational program and student outcomes. Recruiters promised students a cutting-edge education that would propel them to high-paying jobs as software engineers and a robust network of connections to technology sector employers.¹³ Former students’ lived experiences with the courses reveal a different story. These former students have reported

⁹ ISAs are a form of student financing that ties students’ loan payments to their future wages, and which can be offered by private schools or by third-party companies. ISAs allow students to receive educational services without making an immediate payment, instead deferring payment to a later time (upon graduation or withdrawal from the program) when they obtain employment above a set income threshold. The school or lender has a right to a fixed percentage of a student’s income from such employment for a fixed number of years (“term length”) or until a fixed payment (“payment cap”) is met. As such, ISAs operate similarly to federal student loans on an income-driven repayment plan. Many for-profit schools, especially coding bootcamps as popularized in the San Francisco Bay Area, offer ISAs as an alternative to upfront tuition and/or Title IV funding. See <https://protectborrowers.org/income-share-agreements-2/>.

¹⁰ For further details regarding the partnership, see *supra* note 8.

¹¹ See *infra* note 15.

¹² See *infra* note 16.

¹³ See e.g., *Make School* (2021), <https://makeschool.org> [<https://perma.cc/Z6ES-LRKV>] (“Graduates from the program are quickly employed by top tier tech companies making starting salaries averaging over \$100k annually.”); Exhibit F (“our students get jobs. Average started salaries have been over \$100,000.”); Exhibit E (also available at *Admission & Aid*, Make School, <https://web.archive.org/web/20170606203733/https://www.makeschool.com/product-college/admissions>) (estimating a \$90,000 starting salary); Exhibit H (also available at *Tuition & Aid*, Make School, https://web.archive.org/web/20190403055150if_/https://www.makeschool.com/computer-science/tuition-and-aid) (estimating a \$95,000 starting salary).



that the program curriculum consisted of free open-source materials that they could have found and downloaded online. It also seems that most instructors did not have teaching credentials or meaningful teaching experience, that courses were taught haphazardly and without structure, and that there was rapid turnover among teaching and administrative staff.¹⁴ And while the program advertised that graduates earned starting salaries of \$90,000-\$100,000 per year,¹⁵ many students found this was a false promise.

ii. Make School and Dominican, as its partner, misrepresented the cost of the program

Make School encouraged hundreds of students, often students from low-income backgrounds and from communities of color, to sign ISAs by engaging in misrepresentations regarding the actual terms of the ISAs and the program's quality and job outcomes. Furthermore, many former students shared with the SBPC that they were incentivized to take on ISAs to attend the incubator program precisely because of the co-branding between Dominican, an accredited and long-standing Title IV institution, and the Make School—a new coding program with little history ensuring successful student outcomes. Such a partnership gave students confidence that the Make School program had been vetted by Dominican and was therefore a worthwhile use of time and resources. These actions infringe Dominican's Title IV PPA with the Department, as the school engaged in numerous violations of the HEA by partnering with Make School.¹⁶

Former students allege that Make School grossly misstated the nature and total cost of the ISAs for the two-year program. Make School advertised its program as a superior alternative to paying for a traditional college, wherein ISAs as a payment structure would create an “incentive alignment” between Make School and students wherein Make School would be incentivized to help students land the highest paid jobs possible.¹⁷ Contrary to its statements, it appears that Make School's incentive was to sign up as many students for ISAs as possible, which it then used as collateral to finance loans to the company; and the returns to which the company sold to investors.¹⁸

Moreover, Make School representatives obscured the true nature of these predatory and exorbitantly high-cost financing agreements. As described above, the loan agreements stated in all caps at the beginning “THIS IS NOT A LOAN.”¹⁹ Students, many of whom had no experience with loan products or were the first in their family to navigate higher education

¹⁴ Exhibit B at ¶121.

¹⁵ See supra note 13.

¹⁶ See supra note 8.

¹⁷ See e.g., Exhibit D at 2, also available online at Jeremy Rossmann, *On Income Share Agreements and the Future of College*, Y Combinator, <https://www.ycombinator.com/library/5k-on-income-share-agreements-and-the-future-of-college> (“We’re the school that goes in debt when students enroll, it’s kind of a reversal... we hold the risk. You only pay us later if you get a job, we’re on the hook. That puts us in a position, that’s what parents [of students] really appreciate when they realize it, where we have no other incentive than to be providing the kind of education that going to get you a successful career outcome once you finish the program.”)

¹⁸ Exhibit B at ¶116-118; Ex. T.

¹⁹ See Exhibit R.



financing, reasonably concluded that the ISAs were a good option, and potentially superior to traditional student loans.

Make School marketing materials also obscured the actual cost of the loans, which advertised that the program would cost around \$70,000-90,000 for two years.²⁰ However, most students found themselves needing to take out ISAs for each year of the program—which could add up to \$250,000—significantly more than a traditional two-year and even four-year college.²¹ Former students allege that Make School “stacked” ISAs to cover the full cost of Make School’s program and associated living expenses—these agreements were scheduled to be repaid sequentially, binding students to repay for years longer than advertised in Make School’s marketing materials. As a result, ISA borrowers were trapped into repayment for significantly longer time periods than they realized when they signed up for an ISA, sometimes up to 10 years.

iii. Make School and Dominican, as its partner, misrepresented the cost of federal student loans

While Make School never obtained approval from the Department of Education to disburse Title IV funds to students, the school encouraged its students to apply for Title IV aid through Dominican to attend Make School. Email communications from Make School financial aid to students encouraged them to “complete [the] FAFSA before being admitted and after. Feel free to go to the FAFSA application and list our partner university, Dominican University of California. Their school code is 001196!”; and “When you file your FAFSA, please list “Dominican University of California as your school.”²² Students, and in some cases, their parents, were extended federal student loans and grants. In Federal Student Aid’s database, the incubator students’ loans are listed as having been disbursed for Dominican University, and at times, grants are listed as having been disbursed for “Dominican University—The Make School.”²³

Students have shared that Make School encouraged reticent or confused students to apply for thousands of dollars in federal financial aid by claiming they would provide an “Extended-Income-Based-Repayment Protection Plan.”²⁴ An admissions acceptance email to a student stated, for example, “This email is to follow-up to the exciting announcement shared by co-founder, Jeremy Rossmann, that Make School can now accept Federal Financial Aid and Student Loans, providing students a lower financing cost, while offering downside protection

²⁰ Exhibit E.

²¹ Exhibit B ¶¶ 98-105.

²² Exhibit. I at 2;5. *See also* Exhibit. K; L.

²³ Exhibit. M; N. Some students’ grants are listed as disbursed for the “Dominican University of California - The Make School” (OPEID 00119613), while their federal loans are from Dominican University of California (OPEID 00119600).

²⁴ Exhibit. I at 5; Exhibit. O; *see also* Ashu Desai, *Make School has Applied for Independent Accreditation*, Medium (Dec. 8, 2020), [https://medium.com/make-school/make-school-has-applied-for-independent-accreditation-7ab1e243305# \[https://perma.cc/29Z4-J756\]](https://medium.com/make-school/make-school-has-applied-for-independent-accreditation-7ab1e243305# [https://perma.cc/29Z4-J756]).



through our innovative Extended Income-Based Repayment (EIBR) protection plan.”²⁵ Students shared with us that this plan was represented as covering payments on federal loans for students who did not earn above the ISA income threshold. Students have reported that no such EIBR assistance was ever provided, and these students are now deeply indebted for a degree that has not served them and, in many cases, that they were not able to complete.

iv. Make School and Dominican, as its partner, obscured the status of its program as a yellow ribbon school

Make School also misrepresented its status as a future “yellow ribbon” school. The school used this promise to recruit military veterans with the promise that their loans would eventually be forgiven once Make School obtained this status.²⁶ Upon information and belief, the school never did obtain this status—rather, school representatives repeatedly claimed to potential students they were on the path to obtaining this status to lure Veterans into the program.

i. Make School and Dominican failed to disclose it was not approved by California’s for-profit school regulator

Additionally, Make School also failed to disclose to students that it was operating without state accreditation from the Bureau for Private Postsecondary Education (“BPPE”), California’s regulator of for-profit schools, from its founding until approximately 2019. Dominican University nevertheless partnered with Make School. Although Make School eventually did receive approval to operate from the BPPE, it surrendered this approval.

II. Legal Authority

1. Make School students are entitled to cancellation under existing federal discharge programs

Students who took out federal loans to attend the Make School/Dominican incubator program are entitled to a discharge of their federal loans under both the Department’s borrower defense regulations and closed school discharge. We also urge the Department to restore incubator students’ Pell Grant eligibility through whatever mechanism it deems appropriate.

i. Make School and Dominican, as its partner, engaged in misrepresentations that are the basis for students’ borrower defense to repayment

Make School and Dominican, as its partner, engaged in substantial misrepresentations that are the basis for borrower defense to repayment under both the July 1, 2020 Borrower

²⁵ Exhibit. O.

²⁶ Exhibit I at 5 (“Admissions & Enrollment FAQs . . . Can I use . . . my GI Bill to pay for Make School? A: We’re working on final approval to accept GI Bill funding from the VA”).



Defense Regulations and the prior standard. 34 C.F.R. § 685.206(e) *et seq.*; 34 C.F.R. § 685.222. The students and their parents are entitled to a discharge under the borrower defense regulations because Dominican, as a partner of Make School, engaged in substantial misrepresentations by endorsing Make School’s false and misleading statements to students. *See* 34 CFR 685.222(d)(1); 34 C.F.R. § 685.206(e)(v) (“A borrower has a borrower defense under this section if the school *or any of its representatives, or any institution, organization, or person with whom the school has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services,* made a substantial misrepresentation . . .”) (emphasis added).

For those students whose federal loans were disbursed prior to July 1, 2020 and on or after July 1, 2017, a borrower has a right to a discharge if (1) the school made a substantial misrepresentation²⁷ that the borrower reasonably relied on to their detriment in deciding to attend, or to continue attending the school, or in deciding to take out a federal loan; (2) the school breached a contractual promise; or (3) there is a non-default, contested court judgment against the school in the borrower’s favor.²⁸

As of the date of this letter, the standard for borrowers whose loans were disbursed on or after July 1, 2020 is significantly more stringent. A borrower is eligible for relief if the borrower relied upon a “statement, act, or omission by an eligible school to a borrower that is false, misleading, or deceptive” that “directly and clearly relates to enrollment or continuing enrollment at the institution or the provision of educational services for which the loan was made” and the borrower demonstrates that the school made the misrepresentation with “knowledge of its false, misleading, or deceptive nature or with a reckless disregard for the truth”; and the borrower demonstrated that they suffered “financial harm” in the form of “monetary loss” as a result of the school’s misrepresentation that is distinct from borrowing a federal student loan.²⁹

The incubator students meet both of these standards. Students whose loans were disbursed prior to July 1, 2020 are entitled to a discharge because Dominican and Make School made substantial misrepresentations regarding the cost, terms of finance, and quality of education which students reasonably relied on when deciding to enroll in and borrow to attend the program. As we have described above, Make School, and Dominican as its partner, appears to have engaged in misrepresentations regarding job earnings and job opportunities of graduates, including claiming that graduates would earn starting salaries of \$100,000 and that Make School provided a better return on investment than a traditional four-year college.³⁰ Furthermore, as detailed above, Make School engaged in false representations that it would cover students’ federal loans through an “Extended Income Based Repayment Program.” These representations encouraged students to take out federal loans that they now cannot pay.

²⁷ 34 C.F.R. § 668.71 *et seq.* Institutions of higher education that receive Title IV funds must comply with program integrity regulations which prohibit, in part, misrepresentations about the nature of educational programs, financial charges, and employability of graduates.

²⁸ 34 C.F.R. § 685.222 *et. seq.*

²⁹ 34 C.F.R. § 685.206(e) *et. seq.*

³⁰ *See supra* note 13.



Students have also shared in interviews that they and their parents were repeatedly pushed to apply for federal financial aid.³¹ The school also obscured the cost of tuition, claiming that the program would cost around \$70,000 to 90,000 for two years when, in fact, it could cost up to \$250,000.³² Make School and Dominican, as its partner, also appears to have misrepresented the accreditation status of the school—implying that Make School was independently accredited when it was under the incubator program.³³ Students relied on these misrepresentations to their detriment—they have found themselves deeply indebted in private and, for some, federal loans that they have been unable to pay because many have not found the promised employment opportunities and were misled about the nature of the program.

Students who borrowed federal loans after July 1, 2020 are also entitled to a borrower defense discharge based on the same facts. The misrepresentations by Make School, and Dominican by extension, “directly and clearly relate[d] to enrollment or continuing enrollment at the institution or the provision of educational services for which the loan was made” because they were about program quality and outcome students could expect from a degree. Further investigation is warranted as to the knowledge of school officials who disseminated information of the program, but the egregiousness of the statements represents a “reckless disregard for truth.” Finally, students have suffered monetary loss, in addition to taking out federal loans, in years of missed job opportunities and income that they spent in a sub-par school program. Based on the 2020 standard, these students do not qualify for group discharge, but have been difficult to reach or identify individually. For those students who do not qualify for a group discharge the Secretary should consider using his settlement and compromise authority to automatically release these students from their federal loans (see section ii).

ii. Some students who attended the Dominican/Make School incubator program are entitled to a closed school discharge

Borrowers whose schools close when they are attending or within 180 days of their withdrawal from the program, and who do not complete a teach-out program or comparable program at another school, are entitled to a discharge of their federal student loans.³⁴ A school is defined as the main campus, or any branch of the main campus.³⁵ Make School closed July 30, 2021³⁶—students were asked to move out of dorms, instruction ceased in all subjects, and the San Francisco campus permanently closed.

³¹ Phone interviews with anonymous students on (October 2021; November 2021; April 2022).

³² Exhibit E.

³³ Exhibit J (For instance, on the Make School’s FAQ section, the school claimed in response to the question, “Is Make School’s Bachelor in Applied Computer Science program accredited?” that “Yes, the program is accredited by the WASC Senior College and University Commission (WSCUC), the regional accrediting agency covering the State of California.”³³ While the FAQ went on to explain the incubator program, this statement could lead a student to believe Make School had received its own accreditation.)

³⁴ 20 U.S.C. § 1087(c)(1); 34 C.F.R. §§ 682.402(d)(1)(i) (FFEL), 685.214(a)(1) (Direct Loan).

³⁵ 34 C.F.R. § 685.214(a)(2)(ii) (Direct Loan).

³⁶ Exhibit A.



Make School/Dominican students who were not able to complete their degree in computer science and who attended or withdrew from Make School within 180 days of July 30, 2021 are entitled to a closed school discharge. While some students completed their computer science degree at Dominican, the majority of students did not and were left without a college degree but with thousands of dollars in private and federal student debt. While the Department does not list Make School as a closed school in its closed school report, the facts suggest Make School indeed was a branch of Dominican.³⁷ While Make School was never eligible for Title IV aid under the Department’s regulations, in many ways the school was operating as a branch of Dominican. Indeed, as mentioned above, the OPEID listed for some students’ grants reflects that Make School was a branch of Dominican.³⁸ The MOU between the entities establishes that the incubation created a “new school of Dominican.”³⁹ The terms of the agreement also suggest that Dominican was the controlling entity, similar to a main campus, while Make School operated as a branch or offshoot of the main school—for instance, Dominican’s board retained control over in incubator and Dominican retained control over academic services, including setting the floor on admissions standards.⁴⁰ Dominican itself seems to have taken the position that Make School was a branch of Dominican, claiming in the closure letter that “there is no easy way of conveying the message that Make School will close effective July 30, 2021; at that time, Dominican University of California—under whose umbrella your degree was always offered—will take over the degree program directly.”⁴¹ The letter went on, assuring students that “you are already enrolled as a Dominican student, so no application is required.” California state level data indicates that Make School is a closed institution since July 31, 2021.⁴²

While the 2020 regulations have dispensed with automatic closed school discharge for schools that closed after July 1, 2020, the Department should consider proactively identifying and reaching out to the students who are eligible for closed school discharge.

2. *In the alternative, the Secretary should discharge the incubator students’ federal loans using his compromise authority*

It is established that the Secretary has broad authority to compromise and modify federal student loan debts. The Secretary has general authority to cancel debt owed to the federal government as conferred by Congress to administrative agencies in the Federal Claims Collection Act of 1966 (“FCCA”). 31 U.S.C. § 3701 *et seq.* This authority is further developed by the Federal Claims Collection Standards (“FCCS”). 31 C.F.R. Subt. B, Ch. IX. Even more broadly, however, Congress granted the Secretary specific authority to create,

³⁷ *Closed School Weekly/Monthly reports*, Federal Student Aid, <https://www2.ed.gov/offices/OSFAP/PEPS/closedschools.html> (last accessed June 28, 2022).

³⁸ *See e.g.*, Exhibit M; N.

³⁹ Exhibit B at 90 (DUC_00001).

⁴⁰ Exhibit. B at 92-95 (DUC_00003-00005).

⁴¹ Exhibit A.

⁴² *Ineligible Cal Grant Schools for 2021-22*, California Student Aid Commission (Mar. 14, 2022), https://www.csac.ca.gov/sites/main/files/file-attachments/2021-22_ineligible_cal_grant_schools.pdf?1647289803.



cancel, and modify debts made under the HEA.⁴³ In brief, Congress granted the Secretary authority in the HEA to promulgate regulations; sue and be sued; to include terms, conditions, and covenants related to repayment; and to compromise and modify student loan debts. 20 U.S.C. § 1082(a) *et seq.* Of particular interest here, the Secretary may also “consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument” of any loan made under the Title IV program. 20 U.S.C. § 1082(a)(4). The Secretary may modify a loan to a \$0.00 balance. This authority is not limited by Congress’ appropriations power, nor by the FCCS.

If the Department finds the incubator students do not meet the borrower defense or the closed school discharge requirements, we urge the Secretary to use his modification authority to discharge the incubator students’ federal loans to align with the broad policy and fairness concerns that undergird these regulations.⁴⁴ Make School engaged in widespread deception, which Dominican unwittingly propped up, and then abruptly shuttered its doors—leaving students saddled with debts, no degree or a worthless degree, and broken promises. Students should not be left to carry this lifelong financial burden while the schools’ officials and founders walk away.

3. *The Department should act on evidence that Dominican has engaged in violations of its Program Participation Agreement*

Additionally, the Department should investigate and determine whether Dominican has violated its Program Participation Agreement (PPA) with the Department. As detailed in the SBPC’s report, Dominican may have violated this agreement in several ways.⁴⁵ For one, Dominican may have violated program integrity regulations through its educational partner Make School by engaging in substantial misrepresentations regarding the nature of the incubator educational program, financial charges, and employability of graduates.⁴⁶ As detailed in the report, Make School appears to have engaged in misrepresentations regarding its accreditation status, its approval by the BPPE, the loan repayment assistance it would provide to students, and graduates’ future job earnings and job outcomes.⁴⁷ Students relied on these representations to their detriment; many have found themselves deeply indebted with no degree, and none of the promised income or job outcomes. Dominican is liable for these misrepresentations given its arrangement with Make School to provide educational services, marketing, recruiting, and admissions services.⁴⁸

⁴³ See generally, Letter from the Project on Predatory Student Lending to Senator Elizabeth Warren (2020), <https://static.politico.com/4c/c4/dfaddbb94fd684ccfa99e34bc080/student-debt-letter-2.pdf>.

⁴⁴ See generally, Winston Berkman-Breen and Claire Torchiana, *Revisiting Relief For Borrowers Who Fall Through The Cracks in Discharge Programs*, the Student Borrower Protection Center (Dec. 2021) (for the proposition that the Secretary can and should use this authority when it would align with the purpose of the HEA discharge programs), https://protectborrowers.org/wp-content/uploads/2021/12/final_Revisiting_Debt_Relief_12_16_2021.pdf.

⁴⁵ See *supra* note 8 at 15-20.

⁴⁶ 34 C.F.R. § 668.71 et al.

⁴⁷ See *supra* note 8 at 15-20.

⁴⁸ 34 C.F.R. §§ 668.71(b),(c).



Furthermore, Dominican appears to have violated preferred lender regulations by steering incubator students to take out ISAs (which, as stated, are a type of private education loan) with Make School.⁴⁹ Indeed, the Memorandum of Understanding between the two entities stated that students would be directed to take out ISAs directly from Make School.⁵⁰ As part of this agreement, Dominican received share options in Make School, and potentially other revenue.⁵¹ Promotional materials by Make School were co-branded with Dominican's logo, and Dominican does not appear to have provided the requisite private loan disclosures to students.⁵²

Even more, Make School's role in distributing financial aid and engaging in financial counseling with incubator students means that Dominican is potentially subject to joint and several liability for Make School's misrepresentations about program cost and outcomes.⁵³

In short, there are numerous ways Dominican may have engaged in violations of its PPA. The Department must investigate these possible violations and hold the school accountable for any wrongdoing.

Should you have any questions, please contact me by email at claire@protectborrowers.org.

Thank you for your attention to this matter.

Sincerely,

/s/ Claire L. Torchiana

Counsel

CC:

Bonnie Latreille, Student Loan Ombudsman, Office of Federal Student Aid, Department of Education

Christopher Madaio, Director of Investigations, Office of Federal Student Aid, Department of Education

Kristen Donoghue, Chief Enforcement Officer, Office of Federal Student Aid, Department of Education

⁴⁹ See *supra* note 8 at 18-20.

⁵⁰ See Exhibit. B. at 95 (DUC_00006).

⁵¹ Exhibit. B. at 104-105 (DUC_00015-00016).

⁵² See *supra* note 8 at 18-20.

⁵³ 34 C.F.R. § 668.25(3); see *supra* note 8 at 20.