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Civil Division, Federal Programs Branch
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March 1, 2024

Rebecca Ellis
Project on Predatory Student Lending
769 Centre St.
Boston, MA 02130

Re: *Sweet v. Cardona*, No. 19-cv-03674 (N.D. Cal.)

Dear Rebecca:

We write to supplement our letter to you dated February 16, 2024, regarding Plaintiffs' February 2, 2024 allegations that Defendants are in material breach of the Settlement Agreement.¹

In our letter, the Department of Education ("Department") acknowledged that full settlement relief has not been implemented for all borrowers who are entitled to such relief under Paragraph IV.A.1 of the Agreement by January 28, 2024. The Department further explained that because its investigation is ongoing, and in light of the month-long delay in the Department's ability to issue discharge requests, the Department was not prepared at that time to issue a determination regarding material breach. The Department can now confirm that it agrees with Plaintiffs that, for borrowers who are entitled to, but have not yet received, full settlement relief pursuant to Paragraph IV.A.1, the Department is in material breach of the Agreement.

The Department remains optimistic that the parties can reach a consensus on the appropriate action to resolve the breach. The Department continues to work urgently to more reliably determine the status of class member relief, to investigate the circumstances of class members who have not received timely relief, and to resolve issues so that class members receive relief as quickly as possible. As an integral part of that work, the Department also continues to engage with servicers, including by instructing them to prioritize resolving *Sweet* relief (specifically, relief for Exhibit C borrowers), and by working to implement an emergency change request to address these issues. A key priority in that work is to reliably identify a timeline for

¹ We acknowledge receipt of your additional correspondence received today and will respond separately at a later date.

resolving these issues and for providing class members timely relief. Due, in part, to the need to finalize certain instructions and details with the servicers, the Department cannot reliably identify that timeline at this time, but it remains an urgent priority and we will provide it as soon as the Department can reliably do so.

Additionally, and as referenced in our prior letter and call, the Department is willing to provide the following non-privileged documents to you during this cooperative meet and confer process in an effort to reach consensus on the path forward:

- Copies of the change requests issued to federal student loan servicers and instructions issued to commercial FFEL servicers regarding implementation of the *Sweet* settlement;
- Narrative descriptions or representative samples of communications from federal student loan servicers to FSA, and from FSA to federal student loan servicers, regarding progress toward effectuating full settlement relief for those Exhibit C borrowers who have not received such relief by February 28, 2024;
- Narrative descriptions or representative samples of documents showing the processes that FSA uses to confirm the status of effectuating full settlement relief for those Exhibit C borrowers who have not received such relief by February 28, 2024; and
- Complaints received by Federal Student Aid, including the Federal Student Aid Ombudsman’s Office, from individuals who—through an agreed-upon process—can be identified as Class Members entitled to automatic discharges.

Your February 2, 2024 letter also requested the “2/28/2023 *Sweet* cohort 1 file.” This file refers to those class members entitled to automatic discharges, and that list was provided to you on February 20, 2024. Your letter also requested an updated version of the class list to indicate inclusion in either the automatic discharge group or in the streamlined review decision group. The updated class list is reflected in the spreadsheet provided on February 20, 2024. Although not requested, the revised version of the class list also breaks down the streamlined group into subgroups indicating the date by which decisions are due.

Finally, you also requested “a list of the approximately 11,700 Class Members whom the Department has identified as not receiving their Full Settlement Relief by the January 28 deadline, including notation of whether each Class Member is awaiting a discharge, a refund, or both.” The Department is willing to provide you a list that identifies, based on agreed-upon criteria, eligible class members who have not received full settlement relief as part of the regular reporting updates the Department has indicated it will provide.

We look forward to your response.

Sincerely,

/s/Stuart Robinson

Stuart Robinson

cc: Eileen Connor
Rebecca Eisenbrey
Joe Jaramillo
Noah Zinner