

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

RACHEL BELL, et al.)
Plaintiff)
- vs -)
UNIVERSITY OF AKRON)
Defendant)
CASE NO.: CV-2018-10-4103
JUDGE SUSAN BAKER ROSS
ORDER

I. STATEMENT OF FACTS

Defendant The University of Akron’s (“Akron U”) offered a dual-accreditation program that would permit Ph.D. graduates to obtain a degree in Marriage and Family Counseling and Therapy (“MFC/T”) with accreditation from both the Council for Accreditation of Counseling and Related Educational Programs (“CACREP”) and Commission on Accreditation for Marriage and Family Therapy Education (“COAMFTE”). However, in April of 2017, Akron U allowed its CACREP accreditation to lapse. Plaintiffs, comprised of current and former doctoral students expecting to receive that dual accreditation, claim that Akron U violated the Ohio Consumer Sales Practices Act (“CSPA”) for the following reasons:

A. Rachel Bell

Rachel Bell studied for three years at Trinity, Palo Heights, IL before transferring to McHenry County College. (Bell Tr. at 11). Bell ultimately graduated from Eckerd College with a B.A. in Psychology and minor in leadership development. (Bell Tr. at 10-11). In 2012, she started graduate school to obtain her Master’s in Marriage and Family Therapy. (Bell Tr. at 13). Bell is currently licensed as an independent marriage family therapist and licensed professional counselor (“LPC”) (Bell Tr. at 14). Bell currently works as a full-time therapist at Strongsville Family Counseling. (Bell Tr. at 37-38). Bell is also active in AAMFT, the professional organization for marriage and family therapy. (Bell Tr. at 10).

Bell applied to the counselor education and supervision Ph.D. program at Akron U in January 2015, and started her coursework in fall of 2015. (Bell Tr. at 15, 17). A large factor in her decision to apply to Akron U was because they offered dual accreditation from COAMFTE and CACREP, which she felt would be valuable to obtain a faculty teaching position in Ohio. (Bell Tr. at 22, 26). Indeed, during the reaccreditation process by CACREP, Bell wrote a letter to Dr. Ramsier and contacted Dr. Patton, Dr. Katafiasz, and Dr. Boyle with her concerns. (Bell Tr. at 49-50).

It was represented to Bell that Akron U was still actively negotiating the reaccreditation, even though, once she received her records request, it became clear that a decision to let the accreditation lapse had already been made. (Bell Tr. at 67-69). The option to simply transfer to the counseling program was not viable for Bell, who desired to complete her training in marriage and family therapy. (Bell Tr. at 71).

Bell anticipates that she will need a CACREP accreditation in order to work at any CACREP-accredited institutions and she alleges that she has experienced a significant loss in full-time faculty job opportunities in Ohio. (Bell Tr. at 45-47, 71-72).

B. Michelle Cappetto

Michelle Cappetto majored in relationship management/communication from Cleveland State University. (Cappetto Tr. at 10). Cappetto then pursued a master's in marriage and family therapy and counseling from Akron U. (Cappetto Tr. at 11). She chose Akron U over other schools based upon a recommendation from a therapist to obtain the dual accreditation. (Cappetto Tr. at 12). After receiving her Master's, Cappetto worked for various agencies in community mental health. (Cappetto Tr. at 12). Cappetto is currently licensed as an independent marriage and family therapist supervisor and licensed professional clinical counselor supervisor. (Cappetto Tr. at 13). She is also currently a member of the Rocky River Chamber of Commerce. (Cappetto Tr. at 10).

In 2015, Cappetto desired to explore different avenues for her career, including teaching and becoming a supervisor. (Cappetto Tr. at 15-16). Because she already possessed two licenses, Cappetto decided to continue her education with both licenses by applying to Akron U's Ph.D. marriage and family therapy and counseling program. (Cappetto Tr. at 19, 29, 45, 57).

Cappetto did not receive notice that the CACREP accreditation had lapsed until after she had enrolled and paid for a degree that she believed would come with a CACREP accreditation. (Cappetto Tr. at 39-40, 43, 51). Withdrawing was not a viable option due to the significant time and money already invested into applying to Akron U, and the fact that there were no other dual accreditation programs. (Cappetto Tr. at 44). Cappetto later discovered that CACREP offered to grandparent in the currently enrolled students, but that opportunity was not presented to the students. (Cappetto Tr. at 59-60). A CACREP accreditation is required to be licensed as a counselor and to teach full-time at a CACREP-accredited university. (Cappetto Tr. at 38-39).

C. Jennifer "Zen" Davis

Jennifer Davis majored in Theater Studies from Kent State University. (Davis Tr. at 9). Davis then received her Master's from Akron U in 2016. (Davis Tr. at 9-10). She obtained her licenses to become a professional counselor and marriage and family therapist in 2016. (Davis Tr. at 10).

Davis began the Ph.D. Counselor and Education and Supervision program at Akron U in the fall of 2016. (Davis Tr. at 15). Davis was personally involved in the CACREP reaccreditation process, updating the practicum charts and participating in the consultant meeting and site visit. (Davis Tr. at 27-29).

When it was discovered that the CACREP accreditation would potentially lapse, Davis and several other students wrote letters to the provost and president in protest. (Davis Tr. at 34-

38). The only options presented to Davis were to continue without accreditation from CACREP or transfer to another CACREP program—the latter of which was not an option to her as she was already so far along in the current program. (Davis Tr. at 41-42). Davis expected that the faculty advocate on the students' behalf to appeal the CACREP decision or seek to have them grandfathered into the accreditation, which did not occur. (Davis Tr. at 44).

Without a CACREP accreditation, Davis has been rejected from faculty teaching positions at other CACREP accredited programs such as Walsh and will be foreclosed from other similar opportunities. (Davis Tr. at 44-45, 60-61). Davis would not have gone into debt to pursue her Ph.D if clinical work was her focus—something she should achieve with a Master's. (Davis Tr. at 61).

D. Richard Dawson

After transferring from several schools, Richard Dawson obtained his undergraduate degree, majoring in Criminal Justice, from Mount Senario College in Wisconsin. (Dawson Tr. at 13-14). After working as a police officer and firefighter, Dawson worked as a pilot while obtaining his Master's in Aviation Science from Everglades University, Boca Raton, FL. (Dawson Tr. at 14-15).

Dawson was a member of Phi Sigma Iota, the counseling honor society, and served as the associate social chair, president, and past president of Delta Kappa Lambda, the MFT honor society, from 2015-2018. (Dawson Tr. at 13). Richard Dawson is a member of the American Academy of Suicidology, International Traumatic Stress Association, American Counseling Association, and American Association of Marriage and Family Therapists. (Dawson Tr. at 12).

Due to medical reasons, Dawson decided to pursue a Ph.D. in counseling in 2013. (Dawson Tr. at 18-19). Dawson applied to Akron U's Ph.D. counselor education and supervision program in the fall of 2014. (Dawson Tr. at 25, 27). One of the primary attractions

of this program was the uniqueness of the dual accreditation, which would provide greater marketability. (Dawson Tr. at 46-47).

He was shocked to receive news that the program “lost” the CACREP accreditation, after the time and energy he had devoted into the program. (Dawson Tr. at 55). The students contacted the provost and president’s office with their concerns. (Dawson Tr. at 56). While those with a Master’s could do clinical work, the Ph.D. program was essential to open the door to teaching and research opportunities. (Dawson Tr. at 57). Dawson was placed in a particularly difficult situation because he did not have a Master’s in MFC/T. (Dawson Tr. at 62-63). Transferring was not a practical option due to the additional time and money required. (Dawson Tr. at 63-64). It wasn’t until after the fact that Dawson learned that Akron U had not “lost” the accreditation, but willingly permitted it to lapse, and that there were grandparenting options available. (Dawson Tr. at 81-83).

E. Renne Dragomir

Renne Dragomir graduated with a Bachelor’s in Psychology from Akron U in 1994. (Dragomir Tr. at 10). She then obtained her master’s in marriage and family therapy from Akron U. (Dragomir Tr. at 11). Afterwards, she worked at Job Training Partnership, Community Mental Health Agency, Crisis Intervention Recovery Center, and Center for Innovative Practices. (Dragomir Tr. at 12). She obtained three licenses in marriage and family therapy, clinical counseling, and chemical dependency. (Dragomir Tr. at 14).

Dragomir decided to pursue her Ph.D. in 2015. (Dragomir Tr. at 15). She eventually applied to the Ph.D. counselor supervision education MFT track program at Akron U in April 2016. (Dragomir Tr. at 18-19). After learning that the CACREP accreditation may potentially lapse, she, along with other students, expressed her concerns by letter to Dr. Ramsier, including the foreclosed opportunities in teaching. (Dragomir Tr. at 66-67, 69-70). Akron U faculty verbally reassured the students that everything was fine and they were advocating for them,

when in reality the decision had already been made that the accreditation would be permitted to lapse. (Dragomir Tr. at 87). She was then given the option to change programs. (Dragomir Tr. at 63). However, this was not viable because she would have to start all over, delay graduation, and pay more money. (Dragomir Tr. at 64, 94-95).

F. Janelle Fye

Janelle Fye obtained her B.A. in Psychology with a minor in Sociology from Duquesne University in 2010. (Fye Tr. at 7). She then obtained her Master's in Clinical and Mental Health Counseling from Duquesne and became licensed as a LPC in 2018. (Fye Tr. at 8-9). Fye then began the Counselor Education and Supervision MFC/T Ph.D. program at Akron U in the fall of 2016. (Fye Tr. at 10-11). She teaches a course in General Psychology at Stark State, Akron campus, interns at Ohio Center for Relationship and Sexual Health, and works at Summit Psychological Associates. (Fye Tr. at 12-13). She has published three articles. (Fye Tr. at 14-15).

Fye applied to the Akron U program because it advertised dual accreditation. (Fye Tr. at 19). She testified that Akron U faculty falsely gave her the impression that they were still advocating to maintain their CACREP accreditation, when it had in fact been lost. (Fye Tr. at 20-21). Fye was told by Akron U faculty that she would not be as competitive in the job market without this accreditation. (Fye Tr. at 22). This was confirmed when she talked to the program director at Walsh University. (Fye Tr. at 23).

While she was given the option to transfer to another CACREP-accredited program, it was not a viable option for Fye because she had already completed a year's worth of MFT Master's makeup coursework. (Fye Tr. at 27).

G. Jennifer Goerke

Jennifer Goerke obtained her B.A. in Psychology with a minor in gender role studies from Kent State University. (Goerke Tr. at 10). She worked at the Oriana House before

starting on her Master's in marriage and family therapy at Akron U in 2011. (Goerke Tr. at 11-13). She chose Akron U's program because it offered dual accreditation. (Goerke Tr. at 31-32, 34). She is currently licensed as a professional counselor and MFT. (Goerke Tr. at 19, 49).

When students were informed that the CACREP accreditation was in danger, they were simultaneously reassured that everything would be fine and to cease contacting administrators and other entities. (Goerke Tr. at 59-62). She was unaware that the CACREP accreditation was deliberately permitted to lapse as a result of Akron U's decision with no efforts to grandfather in the current students, as opposed to CACREP's. (Goerke Tr. at 94, 100). While she was presented with the option of switching to a different program, Goerke did not find this to be a viable option given the amount of time and energy that she had already invested into the current program. (Goerke Tr. at 70-71). Goerke testified that she is limited in her ability to qualify for faculty positions at CACREP-accredited counseling programs. (Goerke Tr. at 67-68).

H. Elizabeth Molla

Elizabeth Molla graduated from Ohio State University with a major in Psychology and Human Development and Family Sciences in 2010. (Molla Tr. at 7). She started the Master's program in Marriage and Family Therapy at Akron U in 2011. (Molla Tr. at 8). She chose Akron U's program because it was dually accredited, providing her more marketability and employment opportunities. (Molla Tr. at 8). She received her LPC and MFT license in 2014. (Molla Tr. at 8). She obtained her LPCC in 2016 and IMFT in 2018. (Molla Tr. at 9). She worked at Ohio Guidestone and Child Guidance and Family Solutions before applying for the Counselor Education Supervision Marriage and Family Track Ph.D. program at Akron U. (Molla Tr. at 9-10).

She was told by the faculty that they were collaborating with CACREP and other entities to determine the best course of action regarding the accreditation, but no options were

presented and students were eventually asked to stop asking questions. (Molla Tr. at 34-35). Indeed, when she met with Dr. Patton to determine whether to enroll in a significant practicum that hinged on the CACREP accreditation, as opposed to transferring programs or universities, she was reassured that they were not at risk of losing the accreditation. (Molla Tr. at 36-37). She later learned, after the fact, that Akron U had chosen to let the accreditation lapse. (Molla Tr. at 47-48).

Transferring to a program being managed by Dr. Schwartz, the same individual that was responsible for losing the CACREP accreditation in the first place, was not a viable option. (Molla Tr. at 52). Transferring to another school was also not a reasonable option given the time and money she had already invested into Akron U and possibility that she could be grandfathered into the CACREP accreditation. (Molla Tr. at 52-53). Molla has suffered loss of future employment opportunities and loss of the time and money she invested in the program to do what she was already qualified to do prior to entering the program. (Molla Tr. at 51-52).

I. Michael Pennington

Michael Pennington graduated with a degree in Psychology from the University of Cincinnati in 2010. (Pennington Tr. at 11). He then obtained his Masters of Art and Education in Marriage and Family Counseling and Therapy from Akron U in 2014. (Pennington Tr. at 12). He chose Akron U because of the dual accreditation. (Pennington Tr. at 22). He is currently licensed as both a LPC and IMFT. (Pennington Tr. at 12).

Pennington applied to several Ph.D. programs, but chose Akron U's Counselor Education Program with a specialty in Marriage and Family Counseling Therapy due to the dual accreditation and unique opportunities that it would provide. (Pennington Tr. at 22-24, 29, 33-34).

He participated in the onsite-visit from CACREP by participating in a Q&A. (Pennington Tr. at 41-44). After he learned that there may be issues with the accreditation, he

got together with other students in order to contact high-level administrators in an attempt to get answers. (Pennington Tr. at 47-50). He did not learn until later that the decision to let the accreditation lapse had already been made prior to Akron U's representation to the students that they were still working on the accreditation issue. (Pennington Tr. at 69). Further, information that CACREP could potentially grandfather in the students was withheld from them. (Pennington Tr. at 69).

Pennington explained how the loss of the CACREP accreditation will hinder his future opportunities to apply for faculty positions at CACREP-accredited schools. (Pennington Tr. at 54-57). While he was presented with the option of transferring to other counseling programs, it did not make sense to transfer because he had already established a relationship with current faculty and mentors, had finished the majority of his training, and would have to give up the COAMFTE accreditation. (Pennington Tr. at 57-59).

J. Amber Ray

Amber Ray earned her degree in Psychology from Kent State in 2012. (Ray Tr. at 8). Ray then earned her Master's through the Marriage and Family Therapy Counseling Program at Akron U in 2016. (Ray Tr. at 9). She is licensed as both an LPC and MFT. (Ray Tr. at 9). Ray then applied to the Counselor Education Supervision, MFT track Ph.D. program at Akron in 2015 in hopes to maintain both parts of her identity. (Ray Tr. at 10-11, 15). The dual accreditation status of the program was further recommended to Ray because of her desire to explore teaching opportunities. (Ray Tr. at 25).

She, along with others, submitted emails to Akron U's president asking for his support in the reaccreditation process. (Ray Tr. at 49). However, the students received a letter from the faculty advising that they were doing what they could to handle the situation and requesting the students to stop advocating for themselves. (Ray Tr. at 49).

Due to the lapse in accreditation, Ray took a year off because she no longer knew if she wanted to complete the program. (Ray Tr. at 36). She was never presented with the option to be grandfathered into the CACREP accreditation. (Ray Tr. at 56-57). She explored transferring to a different program, but she decided that that was not a cost-effective solution. (Ray Tr. at 36). Ray has since been advised that she could not be hired at certain positions without a CACREP accreditation. (Ray Tr. at 59-60).

K. Symphonie Smith

Symphonie Smith majored in family studies and Spanish and minored in business from Ohio University. (Smith Tr. at 11). She then chose to enroll at the MFT and counseling program at Akron U due to the dual accreditation. (Smith Tr. at 11). She received her Master's degree in family counseling and therapy in 2013 and Ph.D. in counselor in supervision, MFT track degree from Akron U in 2018. (Smith Tr. at 12, 24, 26). She is a licensed family therapist and licensed professional counselor. (Smith Tr. at 13).

Smith testified that faculty falsely represented to her that CACREP decided to revoke the Ph.D. program's CACREP accreditation, even though the decision ultimately rested with the faculty. (Smith Tr. at 37-39). Faculty further represented to Smith and the other students that it was pointless to fight for accreditation as it would be simply denied, and that they should simply let the accreditation lapse. (Smith Tr. at 66). She was not given any options to grandfather into the CACREP accreditation. (Smith Tr. at 68).

She has been rejected from a faculty position for failing to come from a CACREP-accredited program and advised the lack of accreditation will pose real problems in seeking a job in the future. (Smith Tr. at 20-21, 41-42, 69). In addition to losing time and money, Smith has also lost important relationships with professors that she considered to be mentors or advocates in her career. (Smith Tr. at 73).

L. Eman Tadros

Eman Tadros graduated with a B.S. in Psychology from Northeastern University, Boston, MA. (Tadros Tr. at 9). She then obtained her Master's in Marriage and Family Therapy, accredited by COAMFTE, from Seton Hall University in 2016. (Tadros Tr. at 9-12).

She then decided to pursue a Ph.D. to teach, strengthen clinical skills, and do research. (Tadros Tr. at 12). Dr. Patton convinced her to join because the program was dually accredited and was told same during her interview. (Tadros Tr. at 22, 51). Despite the reaccreditation issues persisting for months prior to her arrival, she was not informed of those issues. (Tadros Tr. at 49). Tadros committed to attending the program by purchasing property in the area in May, 2017. (Tadros Tr. at 50).

She first learned about the reaccreditation issues with the program in July 10, 2017. (Tadros Tr. at 41-42). Tadros then started at Akron U in the fall of 2017. (Tadros Tr. at 13). But despite losing the accreditation, nothing was done to change the course load. (Tadros Tr. at 43). She was never given the option to grandparent into the accreditation. (Tadros Tr. at 51). The loss of accreditation affects her future job opportunities that require or prefer CACREP accreditation. (Tadros Tr. at 52).

II. PROCEDURAL HISTORY

On October 4, 2018, Plaintiffs filed a Complaint alleging one count for "Unfair and deceptive acts or practices under the CSPA." Specifically, Plaintiffs allege that Akron U, a supplier, engaged in the following unfair and deceptive acts in connection with a consumer transaction: (1) provided false information to Plaintiffs to conceal that Akron U deliberately allowed the CACREP accreditation to lapse; (2) made deliberately false statements to Plaintiffs about why it was "losing" the CACREP accreditation; and (3) concealed the fact that CACREP had offered the Plaintiffs the opportunity to grandparent into the accreditation, falsely representing that such an opportunity was not available to Plaintiffs. In Paragraph 41 of their

Complaint, Plaintiffs request damages for violations of both R.C. 1345.02 (CSPA's statute on unfair and deceptive acts or practices) and R.C. 1345.03 (CSPA's statute on unconscionable consumer sales acts of practices).

III. LEGAL ANALYSIS

A. Standard of Review

In reviewing a motion for summary judgment, the Court must consider whether (1) there is a genuine issue of material fact to be litigated, (2) viewing the evidence in a light most favorable to the non-moving party, reasonable minds can come to but one conclusion, and (3) the moving party is entitled to judgment as a matter of law. Civ. R. 56(B). *See also Temple v. Wean United, Inc.*, 50 Ohio St.2d 317, 327 (1977).

To prevail on a motion for summary judgment, the moving party bears the initial burden of demonstrating the absence of genuine issues of material fact concerning an essential element of the nonmoving party's claim. *Dresher v. Burt*, 75 Ohio St.3d 280, 292 (1996). If the moving party meets that burden, the burden shifts to the non-moving party to produce evidence of a genuine issue of material fact for trial. *Wing v. Anchor Media, LTD.*, 59 Ohio St.3d 108, at syllabus (1991).

B. R.C. 1345.02 Unfair or deceptive act

As a threshold matter, it is undisputed that Akron U is a supplier, Plaintiffs are consumers, and there is a consumer transaction between a student and a university within the meaning of the CSPA statute. *Krueck v. Youngstown State Univ.*, 2019-Ohio-3219, ¶ 29. The remaining question is whether Akron U committed an unfair or deceptive act in relation to its consumer transaction with the Plaintiffs in this case.

According to R.C. 1345.02(A), "No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction."

The statute further sets forth that “the act or practice of a supplier in representing any of the following is deceptive”:

- (1) That the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;
- (2) That the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;
- (3) That the subject of a consumer transaction is new, or unused, if it is not;
- (4) That the subject of a consumer transaction is available to the consumer for a reason that does not exist;
- (5) That the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not, except that the act of a supplier in furnishing similar merchandise of equal or greater value as a good faith substitute does not violate this section;
- (6) That the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;
- (7) That replacement or repair is needed, if it is not;
- (8) That a specific price advantage exists, if it does not;
- (9) That the supplier has a sponsorship, approval, or affiliation that the supplier does not have;
- (10) That a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false.

R.C. 1345.02(B).

A consumer does not need to prove intent or scienter to prove a violation of R.C. 1345.02. *Thomas v. Natl. College of Virginia, Inc.*, 901 F.Supp.2d 1022, 1033 (S.D. Ohio 2012). When determining whether a practice is deceptive, courts look at the incident from the consumer's standpoint. *Id.* The focus is on the perception of the consumer rather than the intent of the supplier. *Id.* The claimants must show that respondents' conduct or statements were likely to induce in claimants' minds impressions that were not in accord with the facts. *Id.* Failure to disclose a substantial fact may constitute an unfair or deceptive act. *Id.* However,

where the record shows that the consumer could not be deceived, no violation has occurred. *Id.*

A college's representation to its students that it holds or will hold a certain accreditation when it does or will not could constitute an unfair or deceptive act under R.C. 1345.02. In *Thomas, supra*, the defendant-college represented that it was in the process of securing a certain accreditation and was hopeful it would be granted by the date of the first graduating class. The Southern District of Ohio found that "[s]uch representations were not accurate and could be found to induce in Plaintiffs' minds impressions that were not in accord with the facts. Thus, a reasonable juror could find that National unfairly led Plaintiffs' to believe that upon graduation, they would be fully qualified to obtain employment as surgical technicians." *Thomas* at 1033–34.

After careful consideration of all of the testimony and evidence from the deposition transcripts submitted to the Court, it is clear that there is a genuine issue of material fact as to whether Akron U falsely represented: (1) that the subject Ph.D. program was dually accredited to prospective students (Eman Tadros and Michelle Cappetto) applying to its program, when it was not; (2) whether CACREP terminated the accreditation or Akron U decided to voluntarily let it lapse, which affected the type and scope of efforts that the faculty and students could have engaged in in order to ensure that the Plaintiffs received what they paid for; and (3) whether anything could have been done to minimize the impact to the Plaintiffs, such as pursuing the option of grandfathering Plaintiffs into the CACREP accreditation.

Even by Defendant's own admission, it is clear that it took almost no action to minimize the impact of its decision to let the CACREP accreditation to lapse. Defendant appears to repeatedly take a "well CACREP wouldn't have let me do it anyways even if I had tried" approach. It begins with the decision to let the CACREP accreditation lapse, after receiving an On-Site Team Report from CACREP with suggestions for program improvement. Rather than taking said suggestions and responding to CACREP, Defendants hold up these mere

suggestions as proof that CACREP would have denied reaccreditation anyways and there was nothing more that could be done.

Perhaps more egregiously, Akron U did not make a special request to CACREP to grandfather in existing doctoral students based upon Schwartz's evaluation that "CACREP wouldn't have granted it anyways." Schwartz Aff. at ¶ 19. Schwartz's statement was directly contradicted by Dr. Robert Urosky, the Vice President of Accreditation and Training at CACREP, who testified that CACREP has granted extensions up to one and a half years to other programs undergoing the review process and even to a program that withdrew from accreditation, and that there is no cap on the length of extension that could be granted. (Dr. Urosky Tr. at 7-8, 111-115). Several faculty member even agreed that Schwartz's conduct throughout the process was deceptive. *See, e.g.*, Patton Tr. at 66-67; Katafiasz Tr. at 37-38, 57, 97; Owens Tr. at 60-61; Queener Tr. at 31; Boyle Tr. at 99.

C. R.C. 1345.03 Unconscionable consumer sales acts or practices

In the Complaint, Plaintiff requests relief under R.C. 1345.03. While Defendant moved for summary judgment on Plaintiff's claim under R.C. 1345.03, the Court does not find that Defendant met its initial summary judgment burden to show that Akron U did not knowingly make any misrepresentations of fact about the reaccreditation process or decision to permit the MFCT PhD program to lapse that the Plaintiffs relied on to their detriment, or that Akron U knew of Plaintiffs' inability to receive a substantial benefit from the MFCT PhD program. Defendant fails to sufficiently cite through deposition testimony or affidavit an absence of a genuine issue of material fact as to whether its representations to Plaintiffs were not unconscionable in order to shift the burden to the Plaintiffs to refute Defendant's argument.

IV. CONCLUSION

For these reasons, Defendant The University of Akron's Motion for Summary Judgment is DENIED.

IT IS SO ORDERED.



JUDGE SUSAN BAKER ROSS

CC: ATTORNEY PETER PATTAKOS
ATTORNEY RANDALL W. KNUTTI
ATTORNEY TIMOTHY MILLER
ATTORNEY JESSICA IWLER OLDHAM

CMP