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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

10 The Tutoring Center Franchisee  
11 Association,

12 Plaintiff,

13 vs.

14 The Tutoring Center Franchise Corp.; and  
15 DOES 1-50,

16 Defendants.

CASE NO.: **24STCV02849**

COMPLAINT FOR VIOLATION OF [16  
CFR § 436.5; CAL. CORP CODE §§ 31114,  
31200 AND 31220; C.C.R. § 310.111; and  
CAL.BUS. & PROF.CODE § 17203]; and for  
DECLARATORY RELIEF [Cal. Code Civ.  
Proc. § 1060]

DEMAND FOR JURY TRIAL

17  
18 Plaintiff, The Tutoring Center Franchisee Association (“Plaintiff”), hereby complains  
19 against Defendant The Tutoring Center Franchise Corp. (“TTCFC” or “Defendant”), and alleges  
20 as follows:  
21  
22

23 **PARTIES, JURISDICTION, AND VENUE**

24 1. Plaintiff is an independent association of Tutoring Center franchisees organized  
25 under a charter of the American Association of Franchisees and Dealers (“AAFD”), a tax-exempt  
26 trust formed in California. As an AAFD chapter, Plaintiff has no fixed place of business. The  
27 Association's general administrative services are performed by AAFD, located in California.  
28

1           2.       Defendant, TTCFC, is a California corporation having its principal place of  
2 business and principal executive offices in Long Beach, California.

3           3.       Jurisdiction is proper in this Court because TTCFC's headquarters are in Los  
4 Angeles County, and TTCFC conducts business in the State of California including the offering  
5 and selling of franchises as defined under the California Franchise Investment Law (Corporations  
6 Code § 31000, et seq. or "CFIL"), and a substantial portion of the acts, omissions, events, and  
7 transactions alleged herein occurred in Los Angeles County, California.

8           4.       At all times mentioned herein, each of the Defendants, including the Defendants  
9 served as DOES herein, was the agent and/or employee of each of the remaining Defendants and  
10 in doing the things herein mentioned was acting within the scope of such agency and/or  
11 employment.

12           5.       Plaintiff is currently unaware of the true names and capacities of those Defendants  
13 designated as DOES 1-50, but will seek leave of this Court to amend its Complaint once such  
14 information is ascertained.

15  
16                                   **GENERAL ALLEGATIONS**

17           6.       TTCFC is a franchisor, that offers and sells franchises for tutoring businesses using  
18 the "Tutoring Center" trademarks throughout the United States, including in California. Its  
19 website indicates it has 120 locations in 23 states.

20 [<https://www.tutoringcenter.com/franchise/franchise-opportunities.php>]

21           7.       Plaintiff is an independent association of Tutoring Center franchisees, whose  
22 membership comprises more than 50 percent of the Tutoring Center franchise system, including  
23 franchisees located in California ("Plaintiff's Members"). All of Plaintiff's Members have  
24 entered into written franchise agreements with TTCFC. Plaintiff's Members have performed  
25 services pursuant to those contracts in California and the relief sought in this action relates to the  
26 interpretation of and the parties' legal duties under those agreements.

27           8.       For the purposes of this action, Plaintiff is representing itself in direct claims, and  
28 the interests of its members throughout the U.S.

1           9. Plaintiff’s Members operate under varying forms of Tutoring Center Franchise  
2 Agreements. The different forms of agreement generally have minor differences, but the  
3 provisions relevant to Plaintiff’s claims herein are substantially similar or the same.

4           10. Disputes have arisen between Plaintiff and TTCFC regarding the interpretation of  
5 applicable laws, and their contractual rights and obligations under the Franchise Agreements.  
6 Plaintiff’s Members have standing to seek the relief herein requested in their own right. The  
7 interests involved in this action and issues presented below are germane to Plaintiff’s purpose as  
8 an association in that resolving these issues is necessary to protect and promote its Members’  
9 economic interests. Neither the claims presented herein, nor the relief sought, require  
10 individualized participation by Plaintiff’s Members, as the claims are either direct claims by  
11 Plaintiff, or associational claims that relate to provisions which appear in all of the Member’s  
12 Franchise Agreements and the legal rights and obligations of Plaintiff’s Members who are subject  
13 to such language, as well as TTCFC’s obligation under both Federal and State laws.

14           11. The validity of Defendant’s interpretations as to the questions raised by each Cause  
15 of Action herein for declaratory relief is of immediate concern to Plaintiff’s Members. So that  
16 they can make critical business decisions and avoid significant and imminent injury, it is essential  
17 to Plaintiff’s Members that the Court determine, without further delay, their legal rights and  
18 obligations with regard to the issues presented in this Complaint.

19  
20   **FIRST CAUSE OF ACTION**  
21   **(Unlawful Interference with Plaintiff and its Members’ Right to Associate)**  
  **(Direct and Associational Claim)**

22           12. Plaintiff incorporates Paragraphs 1- 11 as though fully set-forth below.

23           13. Franchisors operating and selling franchises in California are generally required to  
24 register with the state of California and to provide prospective franchisees with certain disclosures,  
25 in what’s called a Franchise Disclosure Document (“FDD”). Specifically, the California Franchise  
26 Investment Law (CFIL) requires franchisors to provide prospective franchisees with an FDD and  
27 also register the FDD with the California Department of Financial Protection and Innovation  
28 (DFPI). Providing prospective franchisees with an FDD is also required under the Federal Trade

1 Commission’s (“FTC”) Amended Franchise Rule (the “FTC Rule”).

2 14. Pursuant to section 436.5 of the FTC Rule, if requested by the franchisee  
3 association within 60 days after the close the franchisor’s fiscal year, franchisors must include in  
4 Item 20 of the FDD, “the name, address, telephone number, email address, and Web address (to  
5 the extent known) of each trademark-specific franchisee organization associated with the franchise  
6 system being offered.”

7 15. Similarly, under the CFIL, franchisors who use the uniform FDD format for  
8 disclosures are required to follow the North American Securities Administrators Association’s  
9 (“NASAA”) guidelines (the “NASAA Guidelines”), when providing an FDD. The NASAA  
10 Guidelines also require franchisors to disclose franchisee associations in Item 20 of their FDD in  
11 the same manner as the FTC Rule.

12 16. Within 60 days of the end of Defendant’s fiscal year 2021, Plaintiff informed  
13 TTCFC of its existence, provided its contact information, and requested that TTCFC include such  
14 information in its 2022 FDD. Defendant included Plaintiff’s information in its FDD for 2022.

15 17. Within 60 days of the end of Defendant’s fiscal year 2022, Plaintiff again informed  
16 TTCFC of its existence, provided its contact information, and requested that TTCFC include such  
17 information in its 2023 FDD. At the time TTCFC’s CEO, Dr. Thalheimer, acknowledged  
18 Plaintiff as a franchisee association for the Tutoring Center brand and expressly agreed to include  
19 its information in the 2023 FDD.

20 18. Despite Plaintiff’s timely request for proper disclosure of its information in the  
21 2023 FDD, and TTCFC’s express agreement to include the association’s information in the FDD,  
22 TTCFC failed to include the association’s information in Item 20, or anywhere else in its 2023  
23 FDD. Instead, Defendant created its own franchisor run association, “The Tutoring Center  
24 Franchise Advisory Board (FAB),” and listed its contact information in the FDD, but misleadingly  
25 excluded Plaintiff’s.

26 19. TTCFC’s failure to include Plaintiff’s information in its 2023 FDD was and is a  
27 violation of section 436.5(t)(8) of the FTC Rule, and also a violation of CFIL section 31114 and  
28 California Code of Regulations section 310.111(b), for failing to conform to the NASAA

1 Guidelines.

2 20. TTCFC's failure to include the association's information in Item 20 of the FDD is a  
3 further violation of CFIL section 31200, which makes it unlawful for any person to willfully omit  
4 to state in an FDD any material fact which is required to be stated therein.

5 21. The failure to include the association's information in the FDD is further a  
6 violation of CFIL section 31220 which prohibits franchisors from directly or indirectly, through  
7 any officer, agent or employee, from restricting or inhibiting the right of franchisees to join a trade  
8 association or prohibiting the right of free association among franchisees for any lawful purposes.

9 22. Indeed, by omitting Plaintiff's information and instead including only information  
10 about Defendant's newly created FAB as well as instituting a franchisor-controlled Suggestion  
11 Portal, Defendant has actively sought to hamper Plaintiff's ability to prosper and maintain its  
12 membership, and to attract new franchisee members. The FAB and Suggestion Portal were  
13 presented under the guise of making sure the franchisees suggestions are heard and handled in the  
14 most efficient way, but in reality were intended and are being used as a means to hamper  
15 Plaintiff's ability to grow and operate, and to silence and pacify Plaintiff's Members. Franchisees  
16 are restricted in what they can suggest to their franchisor through the FAB, including one of the  
17 most crucial complaints – outdated curriculum - and the submissions through the Suggestion  
18 Portal are filtered by Defendant to determine what suggestions it will present to the Franchise  
19 Advisory Board. Additionally, the Franchise Advisory Board is chosen by Defendant, and  
20 Defendant has complete discretion to disregard the Board's suggestions.

21 23. Pursuant to CFIL section 31302.5:

22 Any person who violates Section 31220 may be sued in the superior court in the  
23 county in which the defendant resides or where a franchise affected by the violation  
24 does business, for temporary and permanent injunctive relief and for damages, if  
25 any, and the costs of suit, including reasonable attorneys' fees. A plaintiff shall not  
be required to allege or prove that actual damages have been suffered in order to  
obtain injunctive relief.

26 24. As a direct and proximate result of TTCFC's failure to include Plaintiff's  
27 information in its FDD, and interference with Plaintiff and its Member's right to associate,  
28 Plaintiff has incurred substantial costs and been damaged in an amount to be proven at trial.

1 25. Plaintiff further seeks an injunction requiring Defendant to amend its 2023 FDD to  
2 include Plaintiff's information, to notify all persons who were given a 2023 FDD of its failure to  
3 include that information, and to provide Plaintiff's information to those persons, and to include  
4 Plaintiff's information in its 2024 FDD as well as in any future FDD so long as Plaintiff timely  
5 requests inclusion of such information.

6 26. Wherefore, Plaintiff prays for relief as requested below.

7  
8 **SECOND CAUSE OF ACTION**  
9 **(Violation of the FTC Rule and California Franchise Investment Law)**  
10 **(Declaratory Relief - Associational Claim)**

11 27. Plaintiff incorporates Paragraphs 1- 26 as though fully set-forth below.

12 28. Plaintiff is informed and believes and based thereon alleges that Defendant has  
13 been making numerous misrepresentations about the Tutoring Center franchise system and brand,  
14 in its FDD, to prospective franchisees, the public and prospective customers and students of its  
15 franchisees, in violation of both state and federal law. This has harmed the brand and Plaintiff's  
16 Members, and will continue to harm the brand and Plaintiff's Members if allowed to continue.

17 29. Plaintiff has raised each of the following allegations with TTCFC with no  
18 resolution. Attached as Exhibit "A" and incorporated herein, is a true and correct copy of  
19 correspondence with TTCFC addressing these allegations.

20 Artificial Inflation of Enrollment Numbers

21 30. Specifically, Plaintiff believes that Defendant has been artificially inflating its  
22 enrollment numbers by including students who are on leaves of absence or YTF's (YTF stands for  
23 yellow test folder and contains pre-enrollment information and numbers) as if they were currently  
24 active and enrolled. Despite repeated requests by Plaintiff and its Members , Defendant has  
25 refused to produce data supporting its claimed enrollment numbers. Plaintiff believes Defendant  
26 is improperly using the inflated numbers to mislead franchisees and the members of the public  
27 who patronize its franchisees. This inaccurate data not only prevents Plaintiff's Members from  
28 properly assessing the true status of the franchise system, but it also creates a false impression to  
mislead prospective franchisees and consumers.

Failure to Properly Disclose Litigation Under Item 3 of its FDD

1  
2 31. Plaintiff further alleges that Defendant has failed to properly disclose pending  
3 litigation in Item 3 of its FDD. FTC Rule section 436.5 requires that franchisors disclose details  
4 of lawsuits in Item 3 of their FDD if the franchisor was a party to any material civil action  
5 involving the franchise relationship in the prior fiscal year. For purposes of section 435.5,  
6 “‘franchise relationship’ means contractual obligations between the franchisor and franchisee  
7 directly relating to the operation of the franchised business (such as royalty payment and training  
8 obligations).” Specifically, franchisors must “summarize the legal and factual nature of each  
9 claim in the action, the relief sought or obtained, and any conclusions of law or fact.”

10 32. Defendant failed to disclose in its 2023 FDD that in 2022, a franchisee that it had  
11 sued, filed a cross-complaint for breach of contract seeking damages against Defendant in the  
12 amount of \$150,000.

Unsupported Financial Claims Under Item 19

13  
14 33. Plaintiff further believes and alleges that Defendant has been making unsupported  
15 claims in Item 19 of its FDD. The FTC Rule mandates that franchisors include the following  
16 language in Item 19 of their FDD, word-for-word, with no modification in language or  
17 punctuation:

18 The FTC’s Franchise Rule permits a franchisor to provide information  
19 about the actual or potential financial performance of its franchised  
20 and/or franchisor-owned outlets, if there is a reasonable basis for the  
21 information, and if the information is included in the disclosure  
22 document. Financial performance information that differs from that  
23 included in Item 19 may be given only if: (1) a franchisor provides the  
24 actual records of an existing outlet you are considering buying; or (2) a  
25 franchisor supplements the information provided in this Item 19, for  
26 example, by providing information about possible performance at a  
27 particular location or under particular circumstances.

23 This language summarizes the requirements set out in FTC Rule section 436.5(s).

24 34. If a franchisor elects not to make any financial performance representations  
25 [“FPRs”], then the FDD must include in Item 19 not only the universal preamble set out above,  
26 but also the following additional preamble:

27  
28 We do not make any representations about a franchisee’s future financial

1 performance or the past financial performance of company-owned or  
2 franchised outlets. We also do not authorize our employees or  
3 representatives to make any such representations either orally or in  
4 writing. If you are purchasing an existing outlet, however, we may  
5 provide you with the actual records of that outlet. If you receive any other  
6 financial performance information or projections of your future income,  
7 you should report it to the franchisor’s management by contacting [name,  
8 address, and telephone number], the Federal Trade Commission, and the  
9 appropriate state regulatory agencies.

6 35. Prior to 2022, Defendant declined to provide FPRs. Starting in 2022 and  
7 continuing in 2023, Defendant began including FPRs in Item 19 of its FDD, but the FPRs appear  
8 to be unsupported and have no reasonable basis.

9 36. The FTC Rule requires that any FPR a franchisor makes be reasonable and  
10 supported by the data – meaning the franchisor must have written substantiation of the FPR in its  
11 possession at the time the FPR is made.

12 37. Despite repeated requests by Plaintiff and its Members for the data supporting the  
13 Item 19 claims, Defendant has failed and refused to provide such written substantiation.

14 Inaccurately Report Franchised Units Under Item 20

15 38. Similarly, in Item 20 of its FDD, wherein franchisors are required under both the  
16 FTC Rule and CFIL to disclose and provide information about their current and former  
17 franchisees, Defendant failed to accurately report the true status of its franchised units from 2017  
18 through 2023. The FDDs over that period failed to report numerous closures, as well as  
19 inaccurately classifying franchises as transferred or signed but not open.

20 39. By failing to accurately disclose the required information in Item 3, and including  
21 unsubstantiated and unreasonable information in Item 19 and inaccurate information in Item 20 of  
22 its FDDs, Defendant has violated both section 436.5 of the FTC Rule and CFIL section 31200.

23 Unsubstantiated Degree

24 40. Defendant has also been holding out its president and founder, Edward Thalheimer,  
25 as having a Ph.D., presumably relating to education. Defendant identifies him as Dr. Edward S.  
26 Thalheimer, Ph.D., in its FDDs. He also has his own website (<https://dredwardthalheimer.co/>)  
27 wherein he advertises himself as having a Ph.D. and listing himself as “Dr. Edward Thalheimer,  
28 Education and Tutoring.” His website further states that he spent years “at the University of



1 California at San Diego,” but does not indicate if that is where he received his purported Ph.D., or  
2 if it was from some other university. Despite many requests from Plaintiff and its Members to  
3 substantiate Edward Thalheimer’s claimed qualifications, Defendant has refused to provide any  
4 documentation or even to identify the field in which he was awarded the Ph.D., or from the  
5 institution which awarded it. Likewise, Plaintiff and its Members have been unable to  
6 substantiate on their own that he actually has a Ph.D., from U.C. San Diego or any other  
7 university. Accordingly, based on information and belief, Plaintiff and its Members allege that  
8 Edward Thalheimer does not actually have a Ph.D., in education or otherwise, and that he and  
9 Defendant have been misleading franchisees, prospective franchisees and the consumer public by  
10 claiming that he has a doctorate.

11 41. Falsely holding himself out as having a Ph.D., in the FDD and other advertising  
12 materials, violates CFIL sections 31200 and 31201. Moreover, aside from misleading Defendant’s  
13 franchisees, it subjects them to serious risk of losing their businesses entirely if their clientele  
14 discover they have been misled. Indeed, a scandal such as this has the potential to bring down the  
15 entire brand.

16 Unsubstantiated Research

17 42. Defendant touts the research behind its system as shown in its 2020 FDD  
18 advertisement registered with the California DFPI. That registered advertisement contains a report  
19 from UCLA by Thomas Murray, Ph.D., UCLA Department of Cognitive Psychology and states  
20 that a request for the full report can be made. Despite the requests from Plaintiff and its Members  
21 to substantiate the report and provide the contact information for Dr. Murray, Defendant has  
22 refused to provide any documentation or substantiation.

23 Unlawful Sale of Franchise

24 43. Defendant has not registered its 2023 FDD with the California DFPI, which it is  
25 required to do in order to legally sell franchises in the State of California. Instead, it filed a Notice  
26 of Transaction Pursuant to Corporations Code Section 25102(f) which indicates a sale of the  
27 Franchisor’s stock; this is not a valid exemption to franchise registration in California, although it  
28 indicates a change in ownership which is required to be disclosed in Item 1 of its FDD.

1 44. Despite requests by Plaintiff and its Members for updated Item 1 and Item 3  
2 disclosures pursuant to the FTC Rule, Defendant has refused to provide any documentation or  
3 information concerning who currently owns the franchise.

4 45. Additionally, Plaintiff and its Members are aware of at least one franchise  
5 sale/transfer in 2023 in California during the time in which Defendant was not registered to sell  
6 franchises.

7 Proper Accounting

8 46. Defendant has been inaccurately changing fees in violation of its franchisees'  
9 agreements. While Defendant has acknowledged such, it has never provided proper accounting to  
10 the franchisees despite Plaintiff's and its Members' requests to do so.

11 47. Plaintiff and its Members have also requested that going forward proper accounting  
12 be provided for the money being withdrawn from their accounts, including in particular what the  
13 withdrawal was for.

14 48. A current dispute has arisen between Plaintiff's Members and Defendant as to the  
15 above issues.

16 a. Plaintiff contends (i) Defendant has been artificially inflating its enrollment  
17 numbers; (ii) misleading prospective and current franchises by including inaccurate  
18 information in Items 1, 3, 19 and 20 of its FDD; (iii) misleading current  
19 franchisees, prospective franchisees, current clients and prospective clients by  
20 falsely embellishing Edward Thalheimer's educational credentials, (iv) misleading  
21 current franchisees, prospective franchisees, current clients and prospective clients  
22 by falsely promoting a research-supported system, (v) misleading prospective and  
23 current franchisees by failing to disclose ownership information and not properly  
24 registering its FDD with the California DFPI, and (vi) misleading prospective and  
25 current franchisees by inaccurately calculating fees and failing to provide proper  
26 accounting for fees.

27 b. Plaintiff is informed and believes that Defendant disputes these claims, and takes  
28 the position that its enrollment figures, representations, FDD disclosures and

1 accounts of Edward Thalheimer’s education are accurate and proper.

2 49. The validity of Defendant’s interpretations as to the questions raised by each issue  
3 above are of immediate concern to Plaintiff’s Members. So that they can make critical business  
4 decisions and avoid significant and imminent injury, it is essential to Plaintiff’s Members that the  
5 Court determine, without further delay, their legal rights and obligations with regard to these  
6 issues.

7 50. Plaintiff seeks a declaration of rights under Cal. Code Civ. Proc., § 1060 that  
8 TTCFC may not harm Plaintiff’s members and its brand by (i) artificially inflating its enrollment  
9 numbers; (ii) misleading prospective and current franchises by including inaccurate information in  
10 Items 1, 3, 19 and 20 of its FDD; (iii) misleading current franchisees, prospective franchisees,  
11 current clients and prospective clients by falsely embellishing Edward Thalheimer’s educational  
12 credentials; (iv) misleading current franchisees, prospective franchisees, current clients and  
13 prospective clients by falsely promoting a research supported system; (v) misleading prospective  
14 and current franchisees by failing to disclose ownership information and not properly registering  
15 its FDD with the California Department of Financial Protection & Innovation; and (vi) misleading  
16 prospective and current franchisees by inaccurately calculating fees and failing to provide proper  
17 accounting for fees.

18 51. WHEREFORE, Plaintiff prays for judgment as set forth below.

19  
20 **THIRD CAUSE OF ACTION**  
21 **(Declaratory Relief – Failure to Provide Adequate Curriculum)**  
22 **(Associational Claim)**

23 52. Plaintiff incorporates Paragraphs 1- 51 as though fully set-forth below.

24 53. Defendant states in its franchise agreements that it “has expended valuable time and  
25 resources to develop a system for assessing and tutoring individuals in academic, enrichment, and  
26 test preparation skills (the “System”),” which includes “‘Copyrighted Works’ and ‘Trade Secrets,’  
27 as defined” in the franchise agreement. [FA § Recitals)]. The franchise agreements further state  
28 that: “Franchisor grants to Franchisee, and Franchisee accepts, the right to use the System and

1 Marks to operate one Center providing tutoring and other Franchisor-approved Products and  
2 Services to the general public at a location approved by Franchisor.” [FA § 1(A)]. “Copyrighted  
3 Works” is defined to include “diagnostic and assessment tests, and Student Workbooks.” [FA §  
4 7(A)]. “Products” and “Services” are defined to “include, but are not limited to, teaching  
5 materials, educational services and tutorial sessions to children, in each case only as designated  
6 and approved by Franchisor and subject to change or elimination by Franchisor.” [FA § 41].

7 54. The franchise agreements further require each franchisee to “operate the[ir] Center  
8 in full compliance with the procedures, policies, methods and requirements in the Operations  
9 Manual including all revisions of the Operations Manual and training material updates received  
10 and with all legal requirements,” [FA § 9(E)] and “to comply with the Manuals, the System and  
11 System standards.” [FA § 10(A)]. And that each franchisee “shall operate the Center according to  
12 the System, and Franchisee shall neither deviate from any element of the System nor purport to  
13 change or modify any aspect of the System without Franchisor’s prior written consent.” [FA §  
14 10(B)].

15 55. A material part of these franchise agreements is that Defendant will provide an  
16 adequate System, that includes a reasonable curriculum and teaching materials for franchisees to  
17 use with their students. By way of example, Item 11(B) in the FDDs indicates that during the  
18 operation of the franchised business, Defendant will provide additional assistance, new  
19 improvements to the system, update the approved supplies and supplier list, and provide  
20 continuing assistance in the operation of the business; Item 16 of the FDDs states “as it is  
21 important for the System to be flexible...to respond to commercial opportunities and challenges;”  
22 and Section 10(A) of the Franchise Agreement states that the:

23  
24 Franchisee understands that it is important for the System to be flexible  
25 to response to commercial opportunities and challenges. Therefore, you  
26 anticipate and agree that the Franchisor will change the System from  
time to time to promote the standards of the System and their efficient  
operation, to protect or maintain the good will associated with the Marks,  
to meet competition and/or otherwise.”

27 56. Franchisees pay significant initial franchise fees and ongoing royalties for this  
28

1 support and are precluded from going outside the System if Defendant fails to provide it. [FA §  
2 14(E)].

3 57. Defendant is failing to provide an adequate System, harming both the brand and  
4 Plaintiff's Members. Despite the consistent pleas of the franchisees, Defendant continues to use  
5 outdated material and refuses to improve the system. Defendant acknowledges that "it is  
6 important for the System to be flexible to respond to commercial opportunities and challenges,"  
7 but has done nothing to achieve that. Not only are franchisees forced to use severely outdated  
8 materials, for which the Defendant continues to increase the price, but Plaintiff is informed and  
9 believes and based thereon alleges that Defendant is continuing to copy and use outdated materials  
10 for which copyright licenses have expired.

11 58. Some of the teaching material is so outdated that it is unavailable from vendors  
12 other than as an eBook. For instance, all the materials used from Creative Teaching Press were  
13 copyrighted in around 2004 or 2005 and are only available for digital download. The books for  
14 Advanced Reading are from 1999 and the books for Advanced Vocabulary are from 1989. These  
15 books are so old and so many new versions have subsequently been produced that they are no  
16 longer published at all.

17 59. Not only are franchisees required to use severely outdated materials, but the  
18 Defendant continues to arbitrarily increase the price it charges for them. For example, the Student  
19 Workbooks were brought in house by Defendant in May 2021 and yet the price has increased from  
20 \$15 to \$20. These same Student Workbooks can be downloaded in digital format from Creative  
21 Teaching Press for \$9.99. Franchisees are also charged more for some of the Summit test prep  
22 materials which can be purchased more cheaply directly from Summit. Further, as of 2021 and  
23 2022, Defendant stopped disclosing vendor kickbacks and at the same time its "other income"  
24 dramatically increased. These increased supply costs were not disclosed in the FDDs and  
25 Defendant has simply created an unexpected and unlawful outside revenue stream.

26 60. It is apparent in that much of the teaching material franchisees are required to use  
27 are third party products that Defendant has scanned and copied, and then requires franchisees to  
28 purchase at significant cost, often above market price. Plaintiff and its Members have requested

1 Defendant provide copies of its current license agreements with each company to ensure that the  
2 franchisees are not being improperly exposed to copyright infringement, but Defendant has  
3 refused to provide the information.

4 61. A current dispute has arisen between Plaintiff's Members and Defendant as to the  
5 above issues.

- 6 a. Plaintiff contends that Defendant: (i) is obligated under its franchise agreements to  
7 provide an adequate curriculum with up-to-date teaching material; (ii) cannot use  
8 materials that infringe third parties' copyrights; and (iii) may not require franchises  
9 to purchase copied material at above market prices, when those additional costs  
10 were not disclosed in Defendant's FDDs.
- 11 b. Plaintiff is informed and believes that Defendant disputes these claims, and takes  
12 the position that: (i) it may require whatever curriculum and teaching materials it  
13 chooses, whether it is commercially adequate or not; (ii) it is not infringing on third  
14 party copyrights; and (iii) it has discretion to set the prices it charges franchisees  
15 for materials it provides.

16 62. The validity of Defendant's interpretations as to the questions raised by each issue  
17 above are of immediate concern to Plaintiff's Members. So that they can make critical business  
18 decisions and avoid significant and imminent injury, it is essential to Plaintiff's Members that the  
19 Court determine, without further delay, their legal rights and obligations with regard to these  
20 issues.

21 63. WHEREFORE, Plaintiff prays for judgment as set forth below.

22  
23  
24 **FOURTH CAUSE OF ACTION**  
**(Violation of the California Unfair Competition Law)**  
**(Associational Claim)**  
25

26 64. Plaintiff incorporates Paragraphs 1- 63 as though fully set-forth below.

27 65. Defendant owed Plaintiff's Members and the public a duty to not engage in illegal,  
28

1 fraudulent, or unfair trade practices prohibited under California Business & Professions Code  
2 section 17200.

3 66. Defendant’s above alleged actions constituted illegal trade practices in violation of  
4 the disclosure and anti-fraud provision of the CFIL and of the FTC Rule. Defendants’ violations  
5 include offering and selling franchises in California through the use of false and misleading  
6 representations and failing to comply with required disclosure obligations.

7 67. Defendant’s above alleged actions further constituted unfair or fraudulent trade  
8 practices in violation of California Business & Professions Code § 17200.

9 68. Plaintiff is informed and believes thereon alleges that Defendants continue to offer  
10 Tutoring Center franchises in California and throughout the country, and that Defendant’s illegal,  
11 fraudulent and unfair business practices present a continuing threat to Plaintiff’s Members and to  
12 members of the public in that Defendant persists in these unlawful practices and will do so unless  
13 and until a permanent injunction is issued by this Court.

14 69. As a direct result of the above illegal, fraudulent and unfair business practices,  
15 Defendants have unjustly damaged Plaintiff’s Members’ businesses by exposing them to conduct  
16 which reflects materially and unfavorably upon the operation and reputation of the franchise  
17 system and their businesses.

18 70. Plaintiff is entitled to recover its attorney’s fees due to the common fund doctrine  
19 and under the private attorney general doctrine, including under California Code of Civil  
20 Procedure § 1021.5.

21 71. WHEREFORE, Plaintiff prays for judgment as set forth below.

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**PRAYER FOR RELIEF**

On the First Cause of Action:

1. For an injunction pursuant to Cal. Corp. Code § 31302.5 requiring TTCFC to amend its 2023 FDD to include Plaintiff’s information, to notify all persons who were given a 2023 FDD of its failure to include that information, and to provide Plaintiff’s information to those persons, and to include Plaintiff’s information in its 2024 FDD as well as in any future FDD so long as Plaintiff timely requests inclusion of such information.
2. For an injunction pursuant to Cal. Corp. Code § 31302.5 prohibiting TTCFC from directly or indirectly, through any officer, agent or employee, restricting or inhibiting the right of its franchisees to join a trade association or prohibiting the right of free association among franchisees for any lawful purposes;
3. For general damages according to proof at trial; and,
4. For reasonable attorneys’ fees pursuant to Cal. Corp. Code § 31303.5.

On the Second Cause of Action:

1. For declaratory relief pursuant to Cal. Code Civ. Proc., § 1060 that TTCFC is in violation of Plaintiff’s Member’s rights by (i) artificially inflating its enrollment numbers; (ii) misleading prospective and current franchises by including inaccurate information in Items 19 and 20 of its FDD; (iii) misleading current franchisees, prospective franchisees, current clients and prospective clients by falsely embellishing Edward Thalheimer's educational degree; (iv) misleading current franchisees, prospective franchisees, current clients and prospective clients by falsely promoting a research supported system; (v) misleading prospective and current franchisees by failing to disclose ownership information and not properly registering its FDD with the California Department of Financial Protection &



1 Innovation; and (vi) misleading prospective and current franchisees by inaccurately  
2 calculating fees and failing to provide proper accounting for fees.

3 On the Third Cause of Action

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- 5 1. For declaratory relief pursuant to Cal. Code Civ. Proc., § 1060 that TTCFC is  
6 obligated under its franchise agreements to provide an adequate curriculum with  
7 up-to-date teaching material; (ii) cannot use materials that infringe on third party  
8 copyrights; and (iii) may not require franchises to purchase copied material at  
9 above market prices, when those additional costs were not disclosed in Defendant's  
10 FDDs.

11 On the Fourth Cause of Action

- 12 1. For injunctive relief pursuant to Cal.Bus. & Prof.Code § 17203 enjoining TTCFC  
13 from (i) artificially inflating its enrollment numbers; (ii) misleading prospective  
14 and current franchisees by including inaccurate information in Items 19 and 20 of its  
15 FDD; (iii) misleading current franchisees, prospective franchisees, current clients  
16 and prospective clients by falsely embellishing Edward Thalheimer's educational  
17 degree; (iv) misleading current franchisees, prospective franchisees, current clients  
18 and prospective clients by falsely promoting a research supported system; (v)  
19 misleading prospective and current franchisees by failing to disclose ownership  
20 information and not properly registering its FDD with the California Department of  
21 Financial Protection & Innovation; and (vi) misleading prospective and current  
22 franchisees by inaccurately calculating fees and failing to provide proper  
23 accounting for fees; and,
- 24 2. And for reasonable attorneys' fees pursuant to Code of Civil Procedure § 1021.5.

25 On all Causes of Action

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- 27 1. For costs of suit; and
- 28 2. Such other and further relief as this court may deem just and proper.


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**TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:**

**Plaintiff hereby demands a jury trial in the above-entitled action.**

Dated: January 31, 2024

**LAGARIAS, NAPELL & DILLON, LLP**

By:   
Bryan W. Dillon  
Attorneys for Plaintiff

**EXHIBIT A**

**EXHIBIT A**



**JONATHAN E. FORTMAN**  
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September 13, 2023

James M. Mulcahy  
Mulcahy Carrillo LLP  
4 Park Plaza, Suite 1950  
Irvine, CA 92614  
Via Email: [jmulcahy@mulcahyllp.com](mailto:jmulcahy@mulcahyllp.com)

Re: Independent Association of The Tutoring Center Franchisees

Dear Mr. Mulcahy:

I am reaching out again on behalf of The Tutoring Center Franchisees Association (“TTCFA”) which represents **more than 50% of the franchise system** and making this **final** request for open dialogue in order to strengthen The Tutoring Center franchise system. As you are aware TTCFA has made repeated requests for open dialogue since February of this year to no avail.

Despite Dr. Thalheimer’s statement in his email dated February 27, 2023 that he is “very committed to open communication and Teamwork and your success and satisfaction means a lot to us,” he has done the exact opposite. He has not only refused to acknowledge this association, he has completely ignored the constant requests for open communication and teamwork for the mutual success and satisfaction of more than 1/2 of the franchisees. Then he created a Franchise Advisory Board and Suggestion Portal under the guise of making sure the suggestions are heard and handled in the most efficient way possible. When in reality it was a way to further pacify and silence the collective. The franchisees are restricted in what they can suggest to their franchisor, including one of the most crucial complaints – outdated curriculum - and then the suggestions are filtered by the franchisor to determine what suggestions they will present to the Franchise Advisory Board. Additionally, the Franchise Advisory Board is chosen by the franchisor and they have the complete discretion to disregard the Board’s suggestions. The methods of receiving communication, including suggestions, from franchisees have changed over the years, but one thing remains constant – the lack of substantive action to those suggestions.

In fact, we have documented the lack of substantive action by tracking the “upcoming great things” over the years versus what the franchisor has actually accomplished. For example, “new math fact workbooks” have been promised since 2017, “new classroom video” has been promised since 2019, “updated weekly staff agenda” has been promised since 2019, and “improvements to TrackVia” have been promised since 2019 – None of which have been fulfilled. We also know that the enrollment numbers claimed in those annual letters are not accurate and/or misleading. For instance, the annual letter dated January 1, 2023 discussed the numbers based on the “most recent survey results.” Yet, the survey itself required franchisees to include LOAs and YTFs in those numbers. For example, on the latest August Survey question #2 states “What is the current TOTAL enrollment at your Center?” Then it instructs the franchisee to include ALL students who are currently on LOA, regardless of the length of their LOA (For example: 43 students attending + 4 LOAs = 47 as your current enrollment). Then Question 4 states “What is the current TOTAL TEST PREP enrollment at your Center?” Then it instructs the franchisees to include SAT Students + ACT Students + SAT/ACT Foundations Students + YTFs (For example: 3 SAT Students + 4 ACT Students + 1 Foundations Student + 2 YTFs = 10). LOAs are students on a leave of absence and not actively enrolled students. The survey even instructs the franchisees to include those students regardless of how long they have been on LOA. Likewise, YTFs are also not actively enrolled students. Including both of these in the enrollment numbers greatly skews the accuracy of the data. Please provide the data and information that support the representations made in the annual letter dated January 1, 2023, including the claim related to location which states that over 94% of the franchisees have secured their locations which is about 35-40% above the national average for franchise companies. We also request that all future surveys not include LOAs and YTFs in enrollment numbers.

This is further concerning because the support team for the franchisees are also the sales representatives who receive commissions on sales of franchises and are the same people who encourage the franchisees to fluff their enrollment numbers on those surveys by including leads. They also use the average monthly tuition collected in those surveys to entice potential franchisees. This not only provides inaccurate data to properly assess the true status of the franchise system, it also creates false numbers that the commissioned staff is using to entice prospective franchisees into entering the system in violation of Item 19.

Additionally, the email on February 9, 2023 provided a table depicting sales prices of past resales versus the level of enrollment at the center, I am requesting the data supporting those claims and statistics. The fact that the number of centers in the system is steadily declining was skipped over in that email as well. In fact, I have tracked the reported franchisees in Item 20 and the corresponding Lists of Current and Former Franchisees from 2017 through 2023 and noticed that there are numerous inaccuracies in those numbers as well, which is further discussed below.

Next, as relayed above, I have reviewed all the franchise disclosure documents from 2017 through 2023 and noticed that the franchisor has violated multiple sections of the Federal Trade

Commission's Amended Franchise Rule, as well as the franchise agreements (FA)/disclosure documents (FDD). Here are just some of the examples:

- Despite Dr. Thalheimer's knowledge of this association's existence, our timely request for proper disclosure in the FDD, and his prior agreement to disclose the association in the FDD, the franchisor has excluded the association for its 2023 FDD in violation of Item 20 of the FTC Amended Franchise Rule.
- Despite Dr. Thalheimer's acknowledgment of the ever-changing landscape in his email and all of the agreements and disclosure documents, and despite the consistent pleas of the franchisees, the franchisor continues to use outdated material and refuses to improve the system. By way of example, all of these sections indicate the franchisor's understanding of and commitment to making updates to the system to respond to the ever-changing landscape of education:
  - Item 11(B) in the FDDs indicates that during the operation of the business, it will provide additional assistance, new improvements to the system, update the approved supplies and supplier list, and provide continuing assistance in the operation of the business.
  - Item 16 of the FDDs states "as it is important for the System to be flexible...to respond to commercial opportunities and challenges."
  - Section 10(A) of the FA states that the "Franchisee understands that it is important for the System to be flexible to respond to commercial opportunities and challenges. Therefore, you anticipate and agree that Franchisor will change the System from time to time to promote the standards of the System and their efficient operation, to protect or maintain the good will associated with the Marks, to meet competition and/or otherwise."
- Prior to 2022, Item 19 of all of the FDDs states that the franchisor does not make any financial performance representations. If received, report it to franchisor's management by contacting Dr. Edward Thalheimer at 4300 Long Beach Blvd, Suite 510, Long Beach, CA 90807, the Federal Trade Commission, and the appropriate state regulatory agencies. Then in 2022 and 2023, the franchisor makes financial performance representations under Item 19 for the periods January 1, 2021 through December 31, 2021 and January 1, 2022 through December 31, 2022, respectively. We believe those numbers are inaccurate and/or misleading as discussed above. We are also requesting written substantiation of the data used in preparing the information contained in the 2022 and 2023 FDD.
- Item 20 of the FDDs fails to accurately report the true status of the franchisees in (and out) of the franchise. I tracked each franchise reported in the corresponding List of Current and Former Franchisees from 2017 through 2023 and there are numerous failures to report closures, as well as franchisees inaccurately classified as a transfer or signed but not open. By way of example, Rodney Marshall of Philadelphia, PA was reported as signed but not opened in 2019, open in 2020, 2021, and 2022, and is

missing all together from 2023. His closure is not reported. Sherman Ali of Houston, TX was reported as open in 2017, 2018, and 2019, then transferred in 2020. Yet, there is no franchisee reported as taking over the franchise. Candyce Simpson-Pecot of Whittier, CA was reported as signed but not opened in 2018 and 2019, open in 2020, 2021, and 2022, and is missing all together from 2023. Her closure is not reported. Then Amal Allam, Colleen O'Higgins, Joseph Tran, Patricia Walker, Sharon Young, Weiwei Zhang, Denise O'Hare, Gwyn Picerme, and Farid Premjee, all various franchisees in CA and FL that were reported as signed but not opened (sometimes for multiple years in a row) and then not reported at all. All of their closures are not reported. This is just some of the many examples of the failure to accurately report the status of the franchisees in the system.

In addition to all of the above, it is my understanding that the franchisor has been charging franchisees incorrect fees, in particular technology fees. Below I have broken down what the agreements from 2017 to 2023 provide for as far as fees. Please note that NONE of the agreements allow the franchisor to increase fees at any point without at least 30 days' notice.

#### 2017

The only listed continuing fees in these agreements are Royalty Fees, Semi Annual Program Fees, and Technology Fees.

The Technology Fee is \$0 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$100 per month, subject to inflation which can be adjusted on an annual basis and in proportion to the changes in the Consumer Price Index (US Average, all items) maintained by the US Department of Labor a compared to previous year. According to my research the increase from July 2022 to July 2023 is 3.2% so for those franchisees under this contract can only be charged up to \$100 per month plus inflation adjustment with 30 days' notice. Therefore, after being given the required 30 days' notice, these franchisees can be charged up to \$103.20 per month.

#### 2018

The only listed continuing fees in these agreements are Royalty Fees, Semi Annual Program Fees, and Technology Fees

The Technology Fee is \$30 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$100 per month, again subject to inflation. Therefore, similar to above, after being given the required 30 days' notice, these franchisees can be charged up to \$103.20 per month.

#### 2019

The only listed continuing fees in these agreements are Royalty Fees, Semi Annual Program Fees, and Technology Fees

The Technology Fee is \$58 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$100 per month, subject to inflation. Therefore, once again, after being given the required 30 days' notice, these franchisees can be charged up to \$103.20 per month.

## 2020

The only listed continuing fees are Royalty Fees, Semi Annual Program Fees, and Technology Fees

The Technology Fee is \$58 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$100 per month, subject to inflation. Therefore, after being given the required 30 days' notice, these franchisees can be charged up to \$103.20 per month.

## 2021

The only listed continuing fees are Royalty Fees, Semi Annual Program Fees, Minimum Digital Marketing Expenditure, and Technology Fees

The Technology Fee is \$58 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$150 per month, subject to inflation. Therefore, after being given the required 30 days' notice, these franchisees can be charged up to \$154.80 per month.

## 2022

The only listed continuing fees are Royalty Fees, Semi Annual Program Fees, Minimum Digital Marketing Expenditures, and Technology Fees

The Technology Fee is \$60 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$200 per month, subject to inflation. Therefore, after being given the required 30 days' notice, these franchisees can be charged up to \$206.40 per month.

## 2023

The only listed continuing fees are Royalty Fees, Semi Annual Program Fees, and Technology Fees. The minimum digital marketing expenditure now states between \$250 to \$400 per month but is not currently required and may be required in the future.

The Technology Fee is \$200 per month and can't be increased without 30 days' notice. Additionally, the maximum is \$250 per month, subject to inflation. Due to the fact that it can only be increased on an annual basis, the maximum that these franchisees can currently be charged is \$200 per month.

In addition, to the maximum amount that can be charged in technology fees as listed above, franchisees should also not be required to pay TrackVia in addition to the technology



fees. Section 12(B)(ii) of the latest franchise agreements states that the technology fee is to manage the student data base, corporate and franchisee website, computer and software security protocols, camera security systems, and other items related to technology and that such payment shall be made directly to franchisor OR to a specific vendor AND shall not be more than the stated maximum as discussed above. Therefore, not only are franchisees being charged incorrect technology fees, they are also exceeding the monthly maximum by making additional payment to TrackVia for the database since 2021.

Furthermore, prior to August of 2022, the franchisees were required to pay EmpowerKit \$50/month (an additional technology fee) for their inclusion on the website. Then in August of 2022, the franchisor took the website in house and, in violation of several franchise agreements, increased the technology fees by \$79/month across the board. This change also caused a severe negative impact to the website further damaging franchisees. Additionally, in July of 2023, another notice was sent out informing all franchisees that the technology fees were going to increase by \$8/month due to cost of living. First, that is not the contracted adjustment calculation agreed to in any of the contracts, and second, the contracted adjustment calculations are based on each contracted price and therefore can't be an overall increase. Finally, the franchise fees have been withdrawn in a single bulk transaction with no breakdown making it more difficult for franchisees to determine whether or not they are being charged the correct amounts. Therefore, on behalf of all the franchisees, we request that the franchisor immediately send proper accounting to each franchisee for all fees charged to the franchisee since the beginning of their current franchise agreement, including a breakdown for how each withdrawal was allocated. We also request that going forward proper accounting be provided for each withdrawal.

Next, it has come to my attention that the franchisor may be exposing the franchisees to copyright infringement claims. First, Item 14 of the 2022 FDD states that the franchisor licenses certain copyrighted materials that is included in the Student Workbooks under a license agreement with Creative Teaching Press, Inc. dated November 4, 2011, as amended. Notably, the first time this is mentioned is in the 2022 FDD despite being in place since 2011. I am also aware that franchisees are required to use Pearson Assessment's Kaufman Test of Educational Achievement 3<sup>rd</sup> Edition Form A for all assessments of students, which has been scanned in and distributed to franchisees for use. Franchisees are also required to use a version of the assessment books that contains four (4) parts that were copied from Pearson and added an algebra readiness part for grades 6<sup>th</sup> through 12<sup>th</sup>. Furthermore, franchisees offering SAT/ACT test prep are required to use Summit Educational Group Test Prep which the franchisor claims to have a license for. For these reasons, I am requesting a copy of the current license agreements with each company to ensure that the franchisees are not being improperly exposed to copyright infringement. Please note that if these are not provided, I will be reaching out on behalf of the association to each company to inquire.

Next, I would like to discuss the use of outdated materials. In an email dated May 31, 2023, a representative of the franchisor said "...I ask that you focus your efforts on improving the business side of the Franchise, while we, the Franchisor, will continue to look for different ways to improve the academic side of things." Yet, despite the consistent complaints of the franchisees, the franchisor has not improved the academic side of things and continues to require franchisees to use outdated materials. In fact, some of the material is so outdated that it is unavailable from vendors other than as an eBook. For instance, all the material used from Creative Teaching Press is copyrighted in around 2004 or 2005 and only available for digital download. The books for Advanced Reading are from 1999 and the books for Advanced Vocabulary are from 1989. These books are so old and so many new versions have been produced since then that they are no longer published at all. Not only are franchisees required to use severely outdated (and likely infringing copyright) materials, the franchisor continues to increase the cost of them. For example, the Student Workbooks were brought in house to the franchisor in May of 2021 and yet the price has increased from \$15 to \$20. These same Student Workbooks can be downloaded in digital format from Creative Teaching Press for \$9.99. Franchisees are also charged more for some of the Summit test prep materials which can be purchased for cheaper directly from Summit. Yet as of 2021/2022, the franchisor stopped disclosing vendor kickbacks and at the same time its "other income" dramatically increased.

Additionally, I noticed that the 2023 FDD has not been filed with the California Department of Financial Protection & Innovation as required in order to sell franchises in the State of California. Instead, a Notice of Transaction Pursuant to Corporations Code Section 25102(f) was filed with the State of California – Department of Financial Protection and Innovation, which indicates there was a sale of the franchisor's stock. As such, we are requesting an immediate update of Item 1 and 3 pursuant to the FTC Amended Franchise Rule. Furthermore, please note that Corporations Code Section 25102(f) is not a valid exemption to franchise registration in the State of California. Therefore, we understand that the franchisor is not currently attempting to sell or transfer any franchises in the State of California.

I also noticed that the 2020 FDD advertisements registered with the California Department of Financial Protection & Innovation contain a Report from UCLA by Thomas Murray, Ph.D., UCLA Department of Cognitive Psychology. Pursuant to that advertisement, we are requesting a full copy of that report, the research behind the report, and the contact information for Mr. Murray.

Finally, please provide proof of Dr. Thalheimer's doctorate of philosophy degree as we have been unable to verify his attendance and degree.

As a reminder here are some of the issues we still wish to address:

1. Website. The Tutoring Center franchise systems needs to address numerous issues with its website including:

- a. Changing the website URL has severely impacted SEO. Furthermore, changing it without proper notice of the new URL has caused franchisees to lose money advertising a URL that does not work or properly forward. UPDATE: Still needs to be addressed.
  - b. Needs to include information on the local owners, their staff, and the local center. The franchisees and their staff are promoting their franchise in their local areas, but consumers can't find them online. UPDATE: Owner names have been added. However, the local franchises are built off of connections to their local community and, as such, it is important for them to have owner bios for local engagement.
  - c. Needs a link to schedule a diagnostic/initial assessment with a local center. UPDATE: Still needs to be addressed.
2. System. The Tutoring Center franchise system needs to address numerous issues with its operating system, including:
  - a. Needs to be updated as it is not interactive and cumbersome to use. UPDATE: Still needs to be addressed.
  - b. Needs automation tools, including scheduling students and staff and tools for automated follow-ups, test reporting, teacher contact, and more. UPDATE: Still needs to be addressed.
3. Curriculum. The Tutoring Center franchise systems needs to address numerous issues with its curriculum, including:
  - a. Needs an overhaul. The curriculum is completely outdated. UPDATE: Still needs to be addressed. Please note that the instructional method you have is strong but the materials are outdated.
  - b. Needs to allow props and additional materials to enhance learning in order to accommodate students with learning differences/disabilities. UPDATE: Still needs to be addressed.
  - c. Need to better develop the SAT/ACT programs and provide training. UPDATE: Still needs to be addressed.
4. Cameras in Classroom. Under no circumstances, especially with the previous allegations against Dr. Thalheimer, do we think cameras in the classroom or recording students is a good idea. Additionally, the franchisor nor the franchisees have legal consent to do so. UPDATE: Still needs to be addressed.
5. Vendors. The current vendors do not offer the best price to franchisees which impacts the profitability of the franchisees. UPDATE: Still needs to be addressed.
6. Lack of Support. The Tutoring Center franchise systems needs to have staff that can adequately support the franchisees. UPDATE: Still needs to be addressed.
7. Lack of Advertising/Marketing. The Tutoring Center franchise systems needs to have adequate advertising/marketing, including materials that can be used for local advertising by the franchisees. UPDATE: Still needs to be addressed.

The above list is not meant to be an exhaustive list of all issues but are the main issues we would like to immediately address. Once again, our desire is to come up with an amicable resolution to all these issues which will strengthen the system as a whole. Since TTCFA represents **more than 50% of the franchise system** and can effectively, succinctly, and efficiently assist the franchisor in addressing issues and improving the system for the benefit of all in a mutual and collaborative way. If significant steps are not taken to communicate with TTCFA and address all of the above, we will be forced to seek assistance from the Federal Trade Commission, state agencies, and/or the Court. I look forward to hearing from you to set up our first meeting and receiving all the above requested information!

Sincerely,

A handwritten signature in black ink, appearing to read 'KMS', with a stylized flourish at the end.

Kelly M Spann