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TRUMP

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7  
8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 TARLA MAKAEFF, BRANDON )  
KELLER, ED OBERKROM, and )  
11 PATRICIA MURPHY on Behalf of )  
Themselves and All Others Similarly )  
12 Situated, )

13 Plaintiffs, )

14 v. )

15 TRUMP UNIVERSITY, LLC, (aka )  
Trump Entrepreneur Initiative) a New )  
16 York Limited Liability Company, )  
DONALD J. TRUMP, and DOES 1 )  
17 through 50, inclusive, )

18 Defendants. )

Case No. 10 CV 0940 CAB (WVG)

DEFENDANTS TRUMP UNIVERSITY,  
LLC AND DONALD J. TRUMP’S  
ANSWER TO THIRD AMENDED  
COMPLAINT AND AFFIRMATIVE  
DEFENSES

19  
20 Defendants TRUMP UNIVERSITY, LLC (“Trump University”) and DONALD J. TRUMP  
21 (collectively referred to as “Defendants”) answer and respond to the correspondingly numbered  
22 paragraphs of the Third Amended Class Action Complaint as follows:

23 1. Denied.

24 2. Defendants admit that plaintiffs herein filed this action on their own behalf and  
25 purportedly on behalf of others. Defendants deny others are “similarly situated.” As to the  
26 remaining portions of the paragraph, Defendants are without knowledge or information to form a  
27 belief as to the truth of those allegations, and on that basis, deny those allegations.

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1           3.       Defendants admit that Trump University trains, educates and mentors entrepreneurs  
2 on achieving financial independence through real estate investing. Defendants deny the remaining  
3 allegations of this paragraph.

4           4.       Defendants admit that plaintiffs Makaeff, Oberkrom, and Keller attended one or more  
5 Trump University real estate programs. Defendants deny the remaining allegations of this  
6 paragraph.

7           5.       Denied.

8           6.       Denied.

9           7.       Defendants admit that Harvard University is an “accredited” institution and that  
10 Trump University is not an “accredited” education institution. Defendants deny the remaining  
11 allegations of this paragraph.

12          8.       Denied.

13          9.       Defendants admit that Attorneys General have indicated that they intended to  
14 investigate Trump University, but no claim or action has been filed in any state. As to the remaining  
15 allegations in this paragraph, Defendants are without knowledge or information sufficient to form a  
16 belief as to the truth of the allegations, and on that basis, deny those allegations.

17          10.       Defendants admit that Attorneys General have indicated that they intended to  
18 investigate Trump University, but no claim or action has been filed in any state. As to the remaining  
19 allegations in this paragraph, Defendants are without knowledge or information sufficient to form a  
20 belief as to the truth of the allegations, and on that basis, deny those allegations.

21          11.       Defendants are without knowledge or information sufficient to form a belief as to the  
22 truth of the allegations of this paragraph, and on that basis, deny those allegations.

23          12.       Defendants deny that seminars were standardized or that mentors or instructors used  
24 scripts. Defendants admit that enrollees were provided support numbers for assistance and provided  
25 that assistance when called. Defendants deny the remaining allegations of the paragraph.

26          13.       Denied.

27          14.       Defendants admit that more than 95% of Trump University attendees who filled out  
28 evaluation forms rated the program as positive, or they would attend additional Trump University

1 programs, or they would recommend Trump University programs to their friends, or all three. As to  
2 the remaining allegations in this paragraph, Defendants are without knowledge or information  
3 sufficient to form a belief as to the truth of the allegations, and on that basis, deny those allegations.

4 15. Denied.

5 16. Denied.

6 17. Denied.

7 18. Denied.

8 19. This paragraph states legal conclusions that require no response. To the extent this  
9 paragraph states any factual allegations, Defendants admit that Donald J. Trump is Chairman of  
10 Trump University, Defendants admit that Trump University is authorized to use Donald J. Trump's  
11 name, photos and quotes, and that advertisements featured his image and quotes, and materials were  
12 sent out with his name. As to the remaining allegations in the paragraph, Defendants deny  
13 subparagraph g. Defendants admit Mr. Trump wrote certain blogs. Defendants deny Mr. Trump  
14 reviewed financials every month or all print, newspaper and direct mail. Defendants are without  
15 knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and  
16 on that basis, deny those allegations.

17 20. Defendants deny that this case may properly be certified as a class action. This  
18 paragraph further states legal conclusions that require no response. To the extent this paragraph  
19 states any factual allegations, Defendants are without knowledge or information sufficient to form a  
20 belief as to the truth of those allegations, and on that basis, deny those allegations.

21 21. Defendants deny that this case may properly be certified as a class action. This  
22 paragraph further states legal conclusions that require no response. To the extent this paragraph  
23 states any factual allegations, Defendants are without knowledge or information sufficient to form a  
24 belief as to the truth of those allegations, and on that basis, deny those allegations.

25 22. This paragraph states legal conclusions that require no response. To the extent this  
26 paragraph states any factual allegations, Defendants admit that Trump University, LLC has its  
27 principal place of business in New York, and Donald J. Trump resides in New York.

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1           23.     This paragraph states legal conclusions that require no response. To the extent this  
2 paragraph states any factual allegations, Defendants deny that this case may properly be certified as  
3 a class action. Defendants further deny that the aggregate amount in controversy exceeds \$5 million.  
4 Defendants deny the remaining allegations of this paragraph.

5           24.     This paragraph states legal conclusions that require no response. To the extent the  
6 paragraph states any factual allegations, Defendants are without knowledge or information sufficient  
7 to form a belief as to the truth of the allegations of this paragraph, and on that basis, deny those  
8 allegations.

9           25.     This paragraph states legal conclusions that require no response. To the extent this  
10 paragraph states any factual allegations, Defendants deny that a substantial part of the events or  
11 omissions giving rise to the claims occurred in this District.

12           26.     Defendants admit that plaintiff Makaeff testified that she is a resident of California.  
13 Defendants admit that plaintiff Makaeff attended a three-day Trump University program entitled  
14 “Fast Track to Foreclosure Training” and participated in the Trump Gold Elite Program. Defendants  
15 deny the remaining allegations of this paragraph.

16           27.     Defendants admit that plaintiff Keller testified that he is a resident of California.  
17 Defendants admit that plaintiff Keller attended a three-day workshop and Trump University fully  
18 refunded his money for the Elite seminar. Defendants deny the remaining allegations of this  
19 paragraph.

20           28.     Defendants admit that plaintiff Oberkrom testified that he is a resident of Missouri.  
21 Defendants deny that plaintiff Oberkrom purchased a three-day mentorship for \$1,495. Defendants  
22 admit that plaintiff Oberkrom contracted to purchase a mentorship program, but then refused to do it.  
23 Defendants deny the remaining allegations of this paragraph.

24           29.     Defendants admit that Mr. Low testified that he is a resident of California.  
25 Defendants admit and Mr. Low testified that he received a mentor who worked side by side with him  
26 for three days as part of the Elite program. Defendants deny the remaining allegations of this  
27 paragraph.

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1           30. Defendants admit that Ms. Everett testified that she is a resident of Florida.  
2 Defendants admit that Ms. Everett attended the \$1,495 seminar and rated it 5 on a scale of 1 to 5.  
3 Defendants admit that Ms. Everett purchased the Gold Elite program but refused to participate in the  
4 in-field mentoring with the selected mentor. Defendants deny the remaining allegations of this  
5 paragraph.

6           31. Defendants admit that Mr. Brown testified that he is a resident of New York.  
7 Defendants admit that Mr. Brown purchased the \$1,495 seminar and rated it “excellent.”  
8 Defendants admit that he purchased an in-field mentorship. Defendants deny the remaining  
9 allegations of this paragraph.

10           32. Defendants admit that Trump University is a limited liability company registered in  
11 New York with its principal place of business in New York, New York. Defendants admit that  
12 Donald J. Trump is the chairman of Trump University as well as the chairman and president of the  
13 Trump Organization. Defendants admit that Trump University changed its name to The Trump  
14 Entrepreneur Initiative. Defendants admit that Trump University conducts business in the State of  
15 California. Defendants deny the remaining allegations of this paragraph.

16           33. Defendants admit that Donald J. Trump resides in New York and conducts business  
17 in California. Defendants deny the remaining allegations of this paragraph.

18           34. Denied.

19           35. Denied.

20           36. This paragraph alleges no facts.

21           37. This paragraph states legal conclusions that require no response. To the extent this  
22 paragraph states any factual allegations, Defendants are without knowledge or information sufficient  
23 to form a belief as to the truth of the allegations of this paragraph, and on that basis, deny those  
24 allegations.

25           38. Defendants admit that Trump University provides educational seminars on real estate,  
26 investments and finance topics. Defendants admit that Trump University was founded by Donald J.  
27 Trump. Defendants admit that Trump University is not an accredited University.

28           39. Denied.

1           40. Defendants admit that Trump University advertises in local media for its courses.  
2 Defendants are without knowledge or information sufficient to form a belief as to the truth of the  
3 remaining allegations of this paragraph, and on that basis, deny those allegations.

4           41. Denied.

5           42. Denied.

6           43. Denied.

7           44. Denied.

8           45. Denied.

9           46. Defendants admit that some Trump University programs offer available mentors.  
10 Defendants admit that Trump University allows attendees to decide if the course is right for them.  
11 Defendants admit that Trump University allows attendees a full refund pursuant to the terms of the  
12 agreement. Defendants deny the remaining allegations of this paragraph.

13           47. Denied.

14           48. Denied.

15           49. Denied.

16           50. Denied.

17           51. Denied.

18           52. Defendants admit that some instructors called leads live during certain programs as a  
19 training and learning exercise, which students liked. Defendants are without knowledge or  
20 information sufficient to form a belief as to the truth of the remaining allegations of this paragraph,  
21 and on that basis, deny those allegations.

22           53. Denied.

23           54. This paragraph states legal conclusions that require no response. To the extent this  
24 paragraph states any factual allegations, denied.

25           55. Denied.

26           56. Denied.

27           57. Denied.

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1           58. Defendants are without knowledge or information sufficient to form a belief as to the  
2 truth of the allegations of this paragraph, and on that basis, deny those allegations.

3           59. Denied.

4           60. Denied.

5           61. Denied.

6           62. Denied.

7           63. Denied.

8           64. This paragraph states legal conclusions that require no response. To the extent this  
9 paragraph states any factual allegations, Defendants admit that the New York Department of  
10 Education, based on a local statute, requested that Trump University change its name, which it did.  
11 Defendants admit that it has had various ratings from the Better Business Bureau.

12           65. This paragraph states legal conclusions that require no response. To the extent this  
13 paragraph states any factual allegations, Defendants admit that Donald J. Trump is Chairman of  
14 Trump University. Defendants admit that Trump University is authorized to use Donald J. Trump's  
15 name, photos and quotes, and that advertisements featured his image and quotes, and materials were  
16 sent out with his name. Defendants deny the remaining allegations except as stated in paragraph 19  
17 above.

18           66. Defendants are without knowledge or information sufficient to form a belief as to the  
19 truth of the allegations of this paragraph, and on that basis, deny those allegations.

20           67. Defendants deny that plaintiff Makaeff purchased the three-day Trump University  
21 "Fast Track to Foreclosure Training" workshop. On information and belief, Defendants admit that  
22 plaintiff Makaeff and her friend were allowed to split the \$1,495.00 cost. Defendants deny the  
23 remaining allegations of this paragraph.

24           68. Defendants are without knowledge or information sufficient to form a belief as to the  
25 truth of the allegations of this paragraph, and on that basis, deny those allegations.

26           69. Denied.

27  
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1           70. Defendants admit that Ms. Makaeff received more than she purchased, namely two  
2 in-field mentors. Ms. Makaeff testified that she later received a third in-field mentor for free, plus  
3 two coaches. Defendants deny the remaining allegations of this paragraph.

4           71. Defendants deny plaintiff Makaeff spent approximately \$60,000 on Trump University  
5 programs. Defendants deny the remaining allegations of this paragraph.

6           72. Denied.

7           73. Denied.

8           74. This paragraph states legal conclusions that require no response. To the extent this  
9 paragraph states any factual allegations, Defendants deny the remaining allegations of this  
10 paragraph.

11           75. Defendants admit that Mr. Oberkrom testified he lives in Missouri. Defendants deny  
12 the remaining allegations of this paragraph.

13           76. Denied.

14           77. Defendants are without knowledge or information sufficient to form a belief as to the  
15 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

16           78. Denied.

17           79. Defendants are without knowledge or information sufficient to form a belief as to the  
18 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

19           80. Denied.

20           81. Defendants are without knowledge or information sufficient to form a belief as to the  
21 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

22           82. Defendants are without knowledge or information sufficient to form a belief as to the  
23 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

24           83. Defendants are without knowledge or information sufficient to form a belief as to the  
25 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

26           84. Defendants are without knowledge or information sufficient to form a belief as to the  
27 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.  
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1           85. Defendants are without knowledge or information sufficient to form a belief as to the  
2 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

3           86. Denied.

4           87. Defendants are without knowledge or information sufficient to form a belief as to the  
5 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

6           88. Denied.

7           89. Denied.

8           90. Defendants admit that Trump University refunded plaintiff Keller's \$35,000. As to  
9 the remaining allegations in this paragraph, Defendants are without knowledge or information  
10 sufficient to form a belief as to the truth of the factual allegations, and on that basis, deny those  
11 allegations.

12          91. Denied.

13          92. Denied.

14          93. Defendants admit that Mr. Low testified that he is a resident of California. As to the  
15 remaining allegations of this paragraph, Defendants have insufficient information to admit or deny  
16 them, and on that basis deny those allegations.

17          94. Defendants have insufficient information to admit or deny the allegations of this  
18 paragraph, and on that basis deny those allegations.

19          95. Defendants have insufficient information to admit or deny the allegations of this  
20 paragraph, and on that basis deny those allegations.

21          96. Defendants have insufficient information to admit or deny the allegations of this  
22 paragraph, and on that basis deny those allegations.

23          97. Defendants admit that Mr. Low received a mentor who worked side by side with him  
24 in his neighborhood to meet his financial goals. As to the remaining allegations of this paragraph,  
25 Defendants have insufficient information to admit or deny them, and on that basis deny those  
26 allegations.

27          98. Defendants admit that Mr. Low received a mentor who worked side by side with him  
28 in his neighborhood to meet his financial goals. As to the remaining allegations of this paragraph,

1 Defendants have insufficient information to admit or deny them, and on that basis deny those  
2 allegations.

3 99. Defendants admit that Mr. Low received a mentor who worked side by side with him  
4 in his neighborhood to meet his financial goals. As to the remaining allegations of this paragraph,  
5 Defendants have insufficient information to admit or deny them, and on that basis deny those  
6 allegations.

7 100. Defendants admit that Mr. Low received a mentor who worked side by side with him  
8 in his neighborhood to meet his financial goals. As to the remaining allegations of this paragraph,  
9 Defendants have insufficient information to admit or deny them, and on that basis deny those  
10 allegations.

11 101. Defendants have insufficient information to admit or deny the allegations of this  
12 paragraph, and on that basis deny those allegations.

13 102. Denied.

14 103. Denied.

15 104. Denied.

16 105. Defendants admit that Ms. Everett testified that she is a resident of Florida. As to the  
17 remaining allegations of this paragraph, Defendants have insufficient information to admit or deny  
18 them, and on that basis deny those allegations.

19 106. Defendants have insufficient information to admit or deny the allegations of this  
20 paragraph, and on that basis deny those allegations.

21 107. Defendants have insufficient information to admit or deny the allegations of this  
22 paragraph, and on that basis deny those allegations.

23 108. Defendants have insufficient information to admit or deny the allegations of this  
24 paragraph, and on that basis deny those allegations.

25 109. Denied.

26 110. Denied.

27 111. Denied.

28 112. Denied.

1           113. Defendants admit that Mr. Brown testified that he is a resident of New York. As to  
2 the remaining allegations of this paragraph, Defendants have insufficient information to admit or  
3 deny them, and on that basis deny those allegations.

4           114. Defendants have insufficient information to admit or deny the allegations of this  
5 paragraph, and on that basis deny those allegations.

6           115. Defendants have insufficient information to admit or deny the allegations of this  
7 paragraph, and on that basis deny those allegations.

8           116. Defendants have insufficient information to admit or deny the allegations of this  
9 paragraph, and on that basis deny those allegations.

10           117. Defendants have insufficient information to admit or deny the allegations of this  
11 paragraph, and on that basis deny those allegations.

12           118. Denied.

13           119. Denied.

14           120. Denied.

15           121. Defendants have insufficient information to admit or deny the allegations of this  
16 paragraph, and on that basis deny those allegations.

17           122. Denied.

18           123. Denied.

19           124. This paragraph states legal conclusions that require no response. Defendants deny  
20 that this case may properly be certified as a class action.

21           125. This paragraph states legal conclusions that require no response. Defendants deny  
22 that this case may properly be certified as a class action.

23           126. This paragraph states legal conclusions that require no response. Defendants deny  
24 that this case may properly be certified as a class action and deny the remaining allegations of this  
25 paragraph.

26           127. Defendants admit that Trump University has certain information about attendees of  
27 its programs. Defendants deny that this case may properly be certified as a class action.  
28





1 other attendees entered into various agreements with Trump University for the Trump University  
2 Gold Program for which they paid about \$34,995.00 and received all that they contracted for. As to  
3 the remaining factual allegations in this paragraph, Defendants are without knowledge or  
4 information sufficient to form a belief as to the truth of the factual allegations, and on that basis,  
5 deny those allegations.

6 151. The allegations are vague and ambiguous. Consequently, Defendants can neither  
7 admit nor deny the allegations of this paragraph, and on that basis, deny those allegations.

8 152. This paragraph states legal conclusions that require no response. To the extent this  
9 paragraph states any factual allegations, Defendants are without knowledge or information sufficient  
10 to form a belief as to the truth of the factual allegations of this paragraph, and on that basis, deny  
11 those allegations.

12 153. This paragraph states legal conclusions that require no response. To the extent this  
13 paragraph states any factual allegations, denied.

14 154. This paragraph states legal conclusions that require no response. To the extent this  
15 paragraph states any factual allegations, denied.

16 **FIFTH CAUSE OF ACTION**

17 (Breach of the Implied Covenant of Good Faith and Fair Dealing Against Trump University)

18 155. Defendants reallege and incorporate by reference as though fully set forth herein their  
19 responses to Paragraphs 1-154 above.

20 156. This paragraph states legal conclusions that require no response.

21 157. This paragraph states legal conclusions that require no response. To the extent this  
22 paragraph states any factual allegations, denied.

23 158. This paragraph states legal conclusions that require no response. To the extent this  
24 paragraph states any factual allegations, Defendants are without knowledge or information sufficient  
25 to form a belief as to the truth of the factual allegations of this paragraph, and on that basis, deny  
26 those allegations.

27 159. This paragraph states legal conclusions that require no response. To the extent this  
28 paragraph states any factual allegations, Defendants are without knowledge or information sufficient

1 to form a belief as to the truth of the factual allegations of this paragraph, and on that basis, deny  
2 those allegations.

3 160. This paragraph states legal conclusions that require no response. To the extent this  
4 paragraph states any factual allegations, denied.

5 161. This paragraph states legal conclusions that require no response. To the extent this  
6 paragraph states any factual allegations, denied.

7 **SIXTH CAUSE OF ACTION**  
8 (Money Had and Received)

9 162. Defendants reallege and incorporate by reference as though fully set forth herein their  
10 responses to Paragraphs 1-161 above.

11 163. Denied.

12 164. This paragraph states legal conclusions that require no response. To the extent this  
13 paragraph states any factual allegations, denied.

14 **SEVENTH CAUSE OF ACTION**  
15 (Negligent Misrepresentation)

16 165. Defendants reallege and incorporate by reference as though fully set forth herein their  
17 responses to Paragraphs 1-164 above.

18 166. Denied.

19 167. Denied.

20 168. Denied.

21 169. Denied.

22 170. Denied.

23 171. Denied.

24 172. Denied.

25 173. Denied.

26 174. Denied.

27 175. Denied.

28 176. Denied.

1 177. Denied.

2 178. Denied.

3 179. This paragraph states legal conclusions that require no response. To the extent this  
4 paragraph states any factual allegations, denied.

5 180. Denied.

6 181. This paragraph states legal conclusions that require no response. To the extent this  
7 paragraph states any factual allegations, denied.

8 182. This paragraph states legal conclusions that require no response. To the extent this  
9 paragraph states any factual allegations, denied.

10 183. This paragraph states legal conclusions that require no response. To the extent this  
11 paragraph states any factual allegations, denied.

12 **EIGHTH CAUSE OF ACTION**  
13 (Fraud)

14 184. Defendants reallege and incorporate by reference as though fully set forth herein their  
15 responses to Paragraphs 1-183 above.

16 185. Denied.

17 186. Denied.

18 187. Denied.

19 188. Denied.

20 189. The allegations of this paragraph are vague and thus Defendants are without  
21 knowledge or information sufficient to form a belief as to the truth of the factual allegations of this  
22 paragraph, and on that basis, deny those allegations.

23 190. This paragraph states legal conclusions that require no response. To the extent this  
24 paragraph states any factual allegations, denied.

25 191. This paragraph states legal conclusions that require no response. To the extent this  
26 paragraph states any factual allegations, denied.

27 192. This paragraph states legal conclusions that require no response. To the extent this  
28 paragraph states any factual allegations, denied.



**NINTH CAUSE OF ACTION**  
(False Promise)

1  
2  
3 193. Defendants reallege and incorporate by reference as though fully set forth herein their  
4 responses to Paragraphs 1-192 above.

5 194. Defendants are without knowledge or information sufficient to form a belief as to the  
6 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

7 195. Denied.

8 196. Defendants are without knowledge or information sufficient to form a belief as to the  
9 truth of the factual allegations of this paragraph, and on that basis, deny those allegations.

10 197. Denied.

11 198. This paragraph states legal conclusions that require no response. To the extent this  
12 paragraph states any factual allegations, denied.

13 199. This paragraph states legal conclusions that require no response. To the extent this  
14 paragraph states any factual allegations, denied.

15 **TENTH CAUSE OF ACTION**  
16 **(Deceptive Acts and Practices in Violation of §349 of**  
**New York's General Business Law)**

17 200. Defendants reallege and incorporate by reference as through fully set forth herein  
18 their responses to Paragraphs 1-199 above.

19 201. Defendants have insufficient information to admit or deny the allegations of this  
20 paragraph, and on that basis deny those allegations.

21 202. This paragraph states legal conclusions that require no response. To the extent this  
22 paragraph states any factual allegations, denied.

23 203. Denied.

24 204. This paragraph states legal conclusions that require no response. To the exten this  
25 paragraph states any factual allegations, denied.



1 220. Denied.

2 221. Denied.

3 222. This paragraph states legal conclusions that require no response. To the extent this  
4 paragraph states any factual allegations, denied.

5 223. Denied.

6 **THIRTEENTH CAUSE OF ACTION**  
7 **(Violation of The Florida Misleading Advertising Law, Fla. Stat. §817.41)**

8 224. Defendants reallege and incorporate by reference as though fully set forth herein their  
9 responses to Paragraphs 1-223 above.

10 225. Defendants have insufficient information to admit or deny the allegations of this  
11 paragraph, and on that basis deny those allegations.

12 226. This paragraph states legal conclusions that require no response. To the exten this  
13 paragraph states any factual allegations, denied.

14 227. Denied.

15 228. Denied.

16 229. This paragraph states legal conclusions that require no response. To the exten this  
17 paragraph states any factual allegations, denied.

18 **FOURTEENTH CAUSE OF ACTION**  
19 **(Unjust Enrichment)**

20 230. Defendants reallege and incorporate by reference as though fully set forth herein their  
21 responses to Paragraphs 1-229 above.

22 231. This paragraph states legal conclusions that require no response. To the exten this  
23 paragraph states any factual allegations, denied.

24 232. Denied.

25 233. This paragraph states legal conclusions that require no response. To the exten this  
26 paragraph states any factual allegations, denied.

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**AFFIRMATIVE DEFENSES**

As and for affirmative defenses to the class action complaint, Defendants allege as follows, provided however, that by alleging the matters set forth in these defenses, Defendants do not hereby allege or admit that it has the burden of proof and/or persuasion with respect to any of these matters.

**FIRST AFFIRMATIVE DEFENSE**  
(Waiver)

Defendants are informed and believe and thereupon allege that plaintiffs have engaged in conduct and activities by reason of which plaintiffs have knowingly and intentionally waived any and all contract claims against Defendant Trump University and thus are barred from any recovery on those claims. Plaintiff Makaeff contends that she is entitled to a refund because she allegedly did not receive the goods and services she purchased. However, Plaintiff Makaeff legally waived any right to a refund because she agreed to accept additional courses and mentoring in lieu of a refund. In addition, she knowingly and intentionally waived her right to cancel her contract within the time period specified in the contract between the parties. Similarly, Plaintiffs Keller and Oberkrom accepted all of the benefits of their contracts and knowingly and intentionally waived their right to any reimbursement, including to waive their right to cancel the contract within the agreed contractual period, thereby barring their contract claims against Trump University.

**SECOND AFFIRMATIVE DEFENSE**  
(Accord and Satisfaction)

Defendants are informed and believe and thereupon allege that Plaintiffs Makaeff is barred from any recovery against Defendants by reason of a prior accord and satisfaction. Plaintiff Makaeff participated in, enjoyed and provided testimonials praising Trump University, including the additional programs and mentoring she received. Plaintiff Makaeff accepted the additional courses and mentoring in lieu of a refund of her money, in accord and satisfaction of the refund she initially sought.



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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2012, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 31, 2012.

s/David K. Schneider  
DAVID K. SCHNEIDER

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