

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

*In re:*

**EVAN BRIAN HAAS,  
  
Debtor.**

**Chapter 7**

**Case No. 15–35886 (DRJ)**

**EVAN BRIAN HAAS and  
MICHAEL SHAHBAZI,  
  
Plaintiffs,**

**Adv. Pro. No. 16–03175 (DRJ)**

**v.**

**NAVIENT SOLUTIONS, LLC and  
NAVIENT CREDIT FINANCE  
CORPORATION,  
  
Defendants.**

**DEFENDANTS’ OBJECTIONS AND RESPONSES TO  
PLAINTIFFS’ SECOND SET OF INTERROGATORIES**

Defendants Navient Solutions, LLC (“NSL”) and Navient Credit Finance Corporation (“NCFC”; collectively with NSL, “Defendants”), by and through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26 and 33, which Federal Rules of Bankruptcy Procedure 7026 and 7033 incorporate into this adversary proceeding, hereby object and respond as follows to *Plaintiffs’ Second Set of Interrogatories*.

**GENERAL OBJECTIONS**

The following General Objections apply to and are incorporated into responses to all Interrogatories and related Definitions. In addition to these General Objections, Defendants state specific objections to the Interrogatories below. By setting forth such additional specific objections, Defendants do not, in any way, intend to limit or restrict their General Objections.

**EXHIBIT B**  
to Smith Declaration

Moreover, the assertion of the same, similar, or additional objections in response to a specific Interrogatory does not waive, limit, or modify any of these General Objections. Finally, in the event that Defendants are eventually required to provide a response to any of the Interrogatories to which they object, such response shall not constitute a waiver of any General Objection or any Specific Objection.

Defendants state the following General Objections:

1. Defendants' investigation of facts relevant to this proceeding is ongoing. The following objections and responses are therefore based solely on the information that is presently available and specifically known to Defendants at this time, and are given without prejudice to the rights of Defendants to present evidence of any subsequently discovered facts. Further investigation, research, and analysis may uncover additional facts, add meaning to known facts, and perhaps establish new factual conclusions. Thus, Defendants make the objections and responses set forth below without prejudice to Defendants' rights to assert any additional or supplemental objections and responses, should Defendants discover additional grounds for such.

2. Defendants object to the Interrogatories to the extent that they exceed the scope of discovery presently authorized by the Court, which is limited to class-certification issues. *See* Dkt. No. 134 ¶ 1.

3. Defendants make the objections and responses below without, in any manner, waiving: (a) the right to object to the use of any response, document, or thing for any purpose in these actions or any other actions on grounds of privilege, relevancy, materiality, or any other appropriate basis; (b) the right to object to any other discovery requests that relate to the subject matter of these objections and responses and any documents or things produced by Defendants; or (c) the right to revise, correct, supplement, or clarify at any time any of the responses below.

4. Defendants expressly reserve the right to supplement their objections and responses.

5. Any responses will be supplied by Defendants subject to all objections as to competency, relevance, materiality, propriety, admissibility, and any and all other objections on any grounds that would require the exclusion of the response or information if such were offered in evidence, all of which objections and grounds are expressly reserved and may be interposed later.

6. Defendants generally object to the Interrogatories to the extent that they seek to impose obligations beyond or inconsistent with those required by the Federal Rules of Civil Procedure, as incorporated into this adversary proceeding by the Federal Rules of Bankruptcy Procedure, the Local Rules of the United States Bankruptcy Court for the Southern District of Texas (the "Court") and the procedures of Judge David R. Jones (collectively, the "Local Rules"), any orders of the Court, or any stipulations or agreements of the parties.

7. Defendants generally object to the Interrogatories insofar as they may be construed as calling for information subject to a claim of privilege, including, without limitation, the attorney-client privilege, the attorney work product doctrine, the party-communication privilege, or any other applicable evidentiary privilege arising under federal, state, or local law, or under the regulations and laws of any applicable foreign jurisdiction. The inadvertent production of any such material is not intended and should not be construed as a waiver, and Defendants reserve the right under Federal Rule of Civil Procedure 26(b)(5)(B) to recall any such response. Defendants have construed the Interrogatories as not seeking information or documents prepared in anticipation of litigation, information or documents exchanged between counsel or employees of Defendants' internal legal groups, or information or documents exchanged with counsel or internal

legal groups for the purpose of seeking or rendering legal advice. The inadvertent disclosure or production of any material protected by the attorney-client privilege, work product doctrine, or any other applicable evidentiary privilege, exception, or immunity is not intended and should not be construed as a waiver, and Defendants reserve the right under Federal Rule of Civil Procedure 26(b)(5)(B), as incorporated by Federal Rule of Bankruptcy Procedure 7026, to recall any such material. Defendants demand that Plaintiffs and their agents and attorneys notify Defendants' undersigned counsel of the production of any such information or documents immediately upon discovery of such information or documents, and return such information or documents to such undersigned counsel upon request.

8. Defendants generally object to the Interrogatories to the extent they seek information concerning communications between NSL or NCFC, on the one hand, and NSL's or NCFC's auditors or accountants, on the other, that are protected from disclosure on the basis of privilege.

9. Defendants generally object to the Interrogatories to the extent they seek information concerning communications between NSL or NCFC, on the one hand, and any state or federal governmental agency, on the other, that are protected from disclosure on the basis of privilege.

10. Defendants generally object to the Interrogatories to the extent they are unlimited as to loans potentially at issue, thereby rendering such Interrogatories vague, overbroad, ambiguous, unduly burdensome, and disproportionate to the needs of the case.

11. Defendants generally object to the Interrogatories to the extent they seek information subject to a confidentiality or nondisclosure agreement, or that relate to or contain

trade secrets, proprietary or confidential business information, or competitively or financially sensitive business, personal, customer, or borrower information.

12. Defendants generally object to the Interrogatories to the extent that they seek personal or private information of Defendants' employees or customers.

13. Defendants generally object to the Interrogatories to the extent that they: (1) seek information that is not relevant to this action; (2) are not proportional to the needs of the case; (3) are vague and ambiguous; (4) are overbroad; (5) are unduly burdensome; (6) are harassing; (7) are duplicative; or (8) will cause unnecessary expense.

14. Defendants generally object to the Interrogatories insofar as they purport to require Defendants to provide information beyond what Defendants are able to locate through a reasonably diligent search in accordance with the requirements of the Federal Rules of Civil Procedure, as incorporated into this adversary proceeding by the Federal Rules of Bankruptcy Procedure, and the Local Rules.

15. Defendants generally object to the Interrogatories insofar as they call for information that is not within Defendants' possession, custody, or control (including, without limitation, in the possession of separate legal entities) on the grounds that such requests are overbroad, unduly burdensome, and violate and exceed the requirements of the Federal Rules of Civil Procedure, as incorporated into this adversary proceeding by the Federal Rules of Bankruptcy Procedure, and the Local Rules.

16. Defendants generally object to the Interrogatories to the extent the information requested is already in the possession of the requesting parties, is publicly available, or is equally available from any other parties.

17. Nothing contained in any objection or response herein shall be deemed to be an admission or acknowledgment that the Interrogatories call for information that is relevant to the subject matter of this action. Further, Defendants have objected and responded to the Interrogatories without waiving or intending to waive any objection to the competency or admissibility as evidence of any information provided, referred to, or made the subject of any response. Defendants expressly reserve the right to object to further discovery of the subject matter of the Interrogatories and the introduction into evidence of any provided information, document, or testimony, including, without limitation, under Federal Rules of Evidence 403 and 408. A partial response to any part of the Interrogatories that has been objected to, in whole or in part, is not intended to be a waiver of the objection(s).

18. Defendants do not intend, and their responses should not be construed as, an agreement or acquiescence with any characterization of fact, assumption, or conclusion of law contained in or implied by any of the Interrogatories. Defendants' responses shall not be construed as an admission of the admissibility or relevance of any information or documents produced in response to the Interrogatories or any other discovery responses. Defendants reserve all evidentiary objections, including, without limitation, objections to the relevance and admissibility of requested information and documents.

Defendants incorporate by reference their General Objections into each of the Specific Objections to Definitions and Objections and Responses to the Interrogatories below. From time to time, and for purpose of emphasis, Defendants may restate one or more of the General Objections as specific objections to Definitions or Interrogatories. Such restatement, or the failure to restate, should not be taken as a waiver of any General Objection not restated.

**SPECIFIC OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

In addition to their General Objections (which are incorporated herein by reference), Defendants object to the following Definitions and Instructions.

1. Defendants object to Definition 1 to the extent that it characterizes any particular loan or category of loan as a “consumer” loan, which is a conclusion of law, and to the extent that it incorrectly paraphrases or assumes which categories of loans are within the scope of any particular subsection of 11 U.S.C. § 523(a)(8), which is an ultimate issue in dispute in this proceeding. Defendants further object to Definition 3 to the extent the phrase “loan product made by NSL or NCFC” causes an Interrogatory to become vague, ambiguous, overbroad, or unduly burdensome. Finally, Defendants object to Definition 3 because the foregoing issues render the defined term “Consumer Education Loan” in any Interrogatory vague, ambiguous, overbroad, unduly burdensome, and not relevant to any claim or defense, proportional to the needs of the case, or within the scope of permissible class-certification discovery under the Amended Stipulated Scheduling Order, Dkt. No. 134. Solely for purposes of responding in good faith to the Interrogatories, and without any admission or concession regarding the nature or dischargeability of such loans or the nature of the educational institutions associated with such loans, Defendants understand that Plaintiffs define Definition 3 to *include* bar study loans, career training loans, and other similar loans to the extent any such loans are associated with non-Title IV institutions (as determined as of the date of origination of the loan), and to *exclude* loans that are or were “made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution” or associated with a Title-IV institution (as determined as of the date of origination of the loan).

2. Defendants object to Definition 2 to the extent that it causes an Interrogatory to become vague or ambiguous.

3. Defendants object to the embedded legal conclusion in Definition 3 that the named Plaintiffs in this action are “similarly situated” with any other particular borrowers, which is an ultimate issue in dispute that has not yet been determined in this action, particularly since the named Plaintiffs’ respective loan documentation differs from one another in material respects and the purported definitions of “Class Members” and “Potential Putative Class Members” in the Interrogatories includes alleged borrowers whose loans are dissimilar to the Plaintiffs’ loans at issue and also includes borrowers with loans that are not relevant to the issues presented in this action, such as borrowers whose loans were obtained post-petition and borrowers who did not receive a discharge within the relevant time period (i.e., the definition includes borrowers who obtained discharge orders in bankruptcy cases filed before October 17, 2005). Defendants further object to Definition 3 to the extent it assumes that any particular loans or categories of loans are dischargeable or were discharged in any particular bankruptcy case. Defendants further object to the use of the defined term “Class Members” as vague and ambiguous because no class has been certified in this action, nor has a putative class been ascertained or determined to be ascertainable. Finally, Defendants object to Definition 3 because all of the foregoing issues render the defined terms “Class Members” and “Potential Putative Class Members” in any Interrogatory vague, ambiguous, overbroad, unduly burdensome, and not relevant to any claim or defense, proportional to the needs of the case, or within the scope of permissible class certification discovery under the Amended Stipulated Scheduling Order, Dkt. No. 134.

4. Defendants object to Definitions 4, 5, and 6 to the extent that they include any person or entity other than Defendants. Defendants will answer based on relevant, non-privileged information in the possession of NSL and NCFC, not all of its outside attorneys, investigators, agents, or consultants.



5. Defendants object to Definition 7 because the terms “any action or attempt”, “collect or obtain”, “any payment”, “successful”, “other communication”, “the borrower”, and “a relationship” are vague and ambiguous and therefore subject to different meanings such that Defendants cannot reasonably determine what information is being requested. Defendants further object to Definition 7 to the extent that it relies on the defined term “Consumer Education Loan”, to which Defendants object above.

6. Defendants generally object to the Instructions to the extent that they impose obligations beyond or inconsistent with those required by the Federal Rules of Civil Procedure, as incorporated into this adversary proceeding by the Federal Rules of Bankruptcy Procedure, the Local Rules, any orders of the Court, or any stipulations or agreements of the parties.

#### **INTERROGATORY**

1. Please identify each of your current and former employees who engaged in the collection of Consumer Education Loans owned or serviced by you during the Relevant Period. For each employee, please list the employee’s name, title, dates of employment, address of employment, and current or last known contact information.

**ANSWER:** In addition to the General Objections and Specific Objections to Definitions and Instructions, Defendants object to the use of the terms “engaged”, “collection”, and “owned or serviced” as vague and ambiguous and therefore subject to different meanings such that Defendants cannot reasonably determine what information is being requested. For the reasons described above, Defendants further object to this Interrogatory to the extent that it uses the defined term “Consumer Education Loan.” Defendants further object to this request as outside the scope of and not relevant to class-certification discovery. Defendants further object to this request as not proportional to the needs of the case and unduly burdensome and harassing, in that it requires an individualized review of every “Consumer Education Loan[] owned or serviced . . . during the Relevant Period” and seeks private information of potentially thousands of Defendants’ employees.

Subject to and without waiving these objections, Defendants respond that the following NSL employees are involved with overseeing collection of private student loans and may be contacted through undersigned counsel: Troy Standish, Senior Vice President—Default Prevention, Private Credit Collections, and Mark VerBrugge, Senior Director of Operations, Portfolio Management.

Dated: November 8, 2017

NAVIENT SOLUTIONS, LLC ANDS  
NAVIENT CREDIT FINANCE CORPORATION

/s/ Thomas M. Farrell

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*Counsel for Navient Solutions, LLC and  
Navient Credit Finance Corporation*

**CERTIFICATE OF SERVICE**

I certify that on this 8th day of November, 2017, I served the foregoing document by email on the following counsel for the Plaintiffs:

Jason Burge, *Counsel for Plaintiffs*, jburge@fishmanhaygood.com  
Lynn Swanson, *Counsel for Plaintiffs*, LSwanson@jonesswanson.com  
Austin Smith, *Counsel for Plaintiffs*, joshuakons@konslaw.com  
Joshua Kons, *Counsel for Plaintiffs*, aconnellsmith@gmail.com

/s/ Thomas M. Farrell

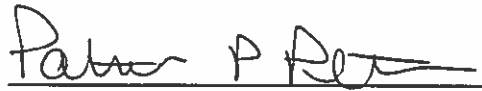
Thomas M. Farrell (TXB 06839250)

**VERIFICATION OF INTERROGATORY ANSWER**

Patricia P. Peterson, in her capacity as Senior Vice President of Operations Support, states under penalty of perjury that she is authorized to respond to the above Interrogatory served by Plaintiffs in the above-captioned action, and that she relied on information provided by other persons, including, to a certain extent, counsel, to provide the information used in formulating the response, that the response is limited thereby, and that, to the best of her knowledge and belief, the response is true and correct.

Dated: November 8, 2017

Signature:



Patricia P. Peterson  
Navient Solutions, LLC