UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of **SHOP TUTORS, INC., a corporation, d/b/a LendEDU,** **NATHANIEL MATHERSON, individually and as an officer of Shop Tutors, Inc.,** **MATTHEW LENHARD, individually and as an officer of Shop Tutors, Inc.,** **and** **ALEXANDER COLEMAN, individually and as an officer of Shop Tutors, Inc.**	**FILE NO. 182 3180** **AGREEMENT CONTAINING CONSENT ORDER**

The Federal Trade Commission ("Commission") has conducted an investigation of certain acts and practices of Shop Tutors, Inc. ("LendEDU" or the "Company"), Nathaniel Matherson, individually and as an officer of LendEDU, Matthew Lenhard, individually and as an officer of LendEDU, and Alexander Coleman, individually and as an officer of LendEDU (collectively "Proposed Respondents"). The Commission's Bureau of Consumer Protection ("BCP") has prepared a draft of an administrative Complaint ("draft Complaint"). BCP and Proposed Respondents, individually or through their duly authorized officers, enter into this Agreement Containing Consent Order ("Consent Agreement") to resolve the allegations in the attached draft Complaint through a proposed Decision and Order to present to the Commission, which is also attached and made a part of this Consent Agreement.

IT IS HEREBY AGREED by and between Proposed Respondents and BCP, that:

1. The Proposed Respondents are:

   a. Proposed Respondent Shop Tutors, Inc., also doing business as LendEDU, a Delaware corporation with its principal office or place of business at 80 River Street, Suite #3C-2, Hoboken, NJ.

   b. Proposed Respondent Nathaniel Matherson, co-founder and Chief Executive Officer of LendEDU. Individually or in concert with others, he formulates, directs, or controls the

policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

c. Proposed Respondent Matthew Lenhard, co-founder and Chief Technology Officer of LendEDU. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

d. Proposed Respondent Alexander Coleman, Vice President of Product of LendEDU. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

2. Proposed Respondents neither admit nor deny any of the allegations in the Complaint, except as specifically stated in the Decision and Order. Only for purposes of this action, Proposed Respondents admit the facts necessary to establish jurisdiction.

3. Proposed Respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order issued pursuant to this Consent Agreement.

4. This Consent Agreement will not become part of the public record of the proceeding unless and until it is accepted by the Commission. If the Commission accepts this Consent Agreement, it, together with the draft Complaint, will be placed on the public record for 30 days and information about them publicly released. Acceptance does not constitute final approval, but it serves as the basis for further actions leading to final disposition of the matter. Thereafter, the Commission may either withdraw its acceptance of this Consent Agreement and so notify each Proposed Respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and Decision in disposition of the proceeding, which may include an Order. *See* Section 2.34 of the Commission's Rules, 16 C.F.R. § 2.34 ("Rule 2.34").

5. If this agreement is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Rule 2.34, the Commission may, without further notice to Proposed Respondents: (1) issue its Complaint corresponding in form and substance with the attached draft Complaint and its Decision and Order; and (2) make information about them public. Proposed Respondents agree that service of the Order may be effected by its publication on the Commission's website (ftc.gov), at which time the Order will become final. *See* Rule 2.32(d). Proposed Respondents waive any rights they may have to any other manner of service. *See* Rule 4.4.

6. When final, the Decision and Order will have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other Commission orders.

7. The Complaint may be used in construing the terms of the Decision and Order. No agreement, understanding, representation, or interpretation not contained in the Decision and Order or in this Consent Agreement may be used to vary or contradict the terms of the Decision and Order.

8. Each Proposed Respondent agrees to comply with the terms of the proposed Decision and Order from the date that Proposed Respondent signs this Consent Agreement. Proposed Respondents understand that they may be liable for civil penalties and other relief for each violation of the Decision and Order after it becomes final.

SHOP TUTORS, INC.,
D/B/A LendEDU

By:_____
Nathaniel Matherson
President
Date:_____

NATHANIEL MATHERSON

By:_____
Nathaniel Matherson, individually and as an officer of Shop Tutors, Inc.

Date:_____

MATTHEW LENHARD

By:_____
Matthew Lenhard, individually and as an officer of Shop Tutors, Inc.

Date:_____

ALEXANDER COLEMAN

By:_____
Alexander Coleman, individually and as an officer of Shop Tutors, Inc.

_____
Michael Goodman
Hudson Cook
Attorney for Proposed Respondents Shop Tutors, Inc.
Nathaniel Matherson, and Matthew Lenhard

_____
Jeffrey Smith
DeCotiis, FitzPatrick, Cole & Giblin, LLP
Attorney for Proposed Respondent Alexander Coleman

FEDERAL TRADE COMMISSION

By:_____
Thomas Widor
Attorney, Bureau of Consumer Protection

APPROVED:

_____
Malini Mithal
Associate Director
Division of Financial Practices

_____
Andrew Smith
Director
Bureau of Consumer Protection

Date:_____

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Joseph J. Simons, Chairman**
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of **SHOP TUTORS, INC., a corporation, d/b/a LendEDU,** **NATHANIEL MATHERSON, individually and as an officer of Shop Tutors, Inc.,** **MATTHEW LENHARD, individually and as an officer of Shop Tutors, Inc.,** **and** **ALEXANDER COLEMAN, individually and as an officer of Shop Tutors, Inc.**	**DECISION AND ORDER** **DOCKET NO. C-**

DECISION

The Federal Trade Commission ("Commission") initiated an investigation of certain acts and practices of the Respondents named in the caption. The Commission's Bureau of Consumer Protection ("BCP") prepared and furnished to Respondents a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondents with violations of the Federal Trade Commission Act.

Respondents and BCP thereafter executed an Agreement Containing Consent Order ("Consent Agreement"). The Consent Agreement includes: 1) statements by Respondents that they neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, they admit the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission's Rules.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondents are:

    a. Proposed Respondent Shop Tutors, Inc., also doing business as LendEDU, a Delaware corporation with its principal office or place of business at 80 River Street, Suite #3C-2, Hoboken, NJ.

    b. Proposed Respondent Nathaniel Matherson, co-founder and Chief Executive Officer of LendEDU. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

    c. Proposed Respondent Matthew Lenhard, co-founder and Chief Technology Officer of LendEDU. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

    d. Proposed Respondent Alexander Coleman, Vice President of Product of LendEDU. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of LendEDU. His principal office or place of business is the same as that of LendEDU.

2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER

Definitions

For purposes of this Order, the following definitions apply:

A. "Clearly and conspicuously" means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure ("triggering representation") is made through only one means.

2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the triggering representation appears.

6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, "ordinary consumers" includes reasonable members of that group.

B. "Close proximity" means that the disclosure is very near the triggering representation. For example, a disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in close proximity to the triggering representation.

C. "Material Connection" means any relationship that might materially affect the weight or credibility of any representation or endorsement and that would not be reasonably expected by consumers.

D. "Respondents" means all of the Corporate Respondents and the Individual Respondents, individually, collectively, or in any combination.

1. "Corporate Respondent" means Shop Tutors, Inc., a corporation, doing business as LendEDU, and their successors and assigns.

2. “Individual Respondents” means Nathaniel Matherson, Matthew Lenhard, and Alexander Coleman.

Provisions

I. Prohibition Against Misrepresentations

IT IS ORDERED that Respondents, and Respondents’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, promotion, offering for sale, or sale of any product or service, must not make, or assist others in making, any misrepresentation expressly or by implication:

A. Regarding the objectivity or impartiality of any content, including any rate tables, rankings, or star ratings of any entity offering those products;

B. Regarding the influence of compensation on any content, including any rate tables, rankings, or star ratings of any entity offering those products;

C. Regarding any Material Connection between any Respondent and any individual or entity offering or affiliated with a product or service;

D. That any endorsement of a product, service, or entity is (i) a truthful endorsement, or (ii) by an actual or impartial user of the product, service, or entity; or

E. Through the use of any endorsement of a product, service, or entity.

II. Required Disclosures

IT IS FURTHER ORDERED that Respondents, and Respondents’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, promotion, offering for sale, or sale of any product or service, must not make, or assist others in making, any representation expressly or by implication:

A. That Respondents’ content is a source of information for products or services, (1) without disclosing, clearly and conspicuously, and in close proximity to the representation, the influence of any compensation on any such content or any other Material Connection between any Respondent and any individual or entity affiliated with any such product or service, and (2) unless the representation is not otherwise misleading; or

B. Regarding any consumer or other endorser or a product, service, or entity, (1) without disclosing, clearly and conspicuously, and in close proximity to the representation, any Material Connection between such endorser and any Respondent or any other individual or entity offering or affiliated with the product or service, and (2) unless the representation is not otherwise misleading.

III. Monetary Relief

IT IS FURTHER ORDERED that:

A. Respondents must pay to the Commission $350,000, which Respondents stipulate their undersigned counsel hold in escrow for no purpose other than payment to the Commission. All Respondents are jointly and severally liable for the payment amount.

B. Such payment must be made within 8 days of the effective date of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.

IV. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

A. Respondents relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondents' practices alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Respondents have no right to challenge any activities pursuant to this Provision.

V. Customer Information

IT IS FURTHER ORDERED that Respondents must directly or indirectly provide sufficient customer information to enable the Commission to efficiently administer consumer redress. Respondents represent that they have provided this redress information to the Commission. If a representative of the Commission requests in writing any information related

to redress, Respondents must provide it, in the form prescribed by the Commission representative, within 14 days.

VI. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondents obtain acknowledgments of receipt of this Order:

A. Each Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 3 years after the issuance date of this Order, each Individual Respondent, for any business that such Respondent, individually or collectively with any other Respondent, is the majority owner or controls directly or indirectly, and Corporate Respondent, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Report and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Respondent delivered a copy of this Order, that Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VII. Compliance Report and Notices

IT IS FURTHER ORDERED that Respondents make timely submissions to the Commission:

A. One year after the issuance date of this Order, each Respondent must submit a compliance report, sworn under penalty of perjury, in which:

1. Each Respondent must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Respondent; (b) identify all of that Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Respondent (which Individual Respondents must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Respondent is in compliance with each Provision of this Order; and (e) provide a copy of each Acknowledgment of the Order

obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, each Individual Respondent must: (a) identify all telephone numbers and all physical, postal, email, and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Respondent performs services, whether as an employee or otherwise, and any entity in which such Respondent has any ownership interest; and (c) describe in detail such Respondent's involvement in each such business activity, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after the issuance date of this Order, each Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Respondent must submit notice of any change in: (a) any designated point of contact; or (b) the structure of any Corporate Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Respondent must submit notice of any change in: (a) name, including alias or fictitious name, or residence address; or (b) title or role in any business activity, including (i) any business for which such Respondent performs services whether as an employee or otherwise and (ii) any entity in which such Respondent has any ownership interest and over which Respondents have direct or indirect control. For each such business activity, also identify its name, physical address, and any Internet address.

C. Each Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re Shop Tutors, Inc.

VIII. Recordkeeping

IT IS FURTHER ORDERED that Respondents must create certain records for 10 years after the issuance date of the Order, and retain each such record for 5 years. Specifically, Corporate Respondent and each Individual Respondent for any business that such Respondent, individually or collectively with any other Respondent, is a majority owner or controls directly or indirectly, must create and retain the following records:

A. accounting records showing the revenues from all products or services sold;

B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. copies or records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. a copy of each unique website, application, form, advertisement or other marketing material making a representation subject to this Order; provided, however, that marketing material is not deemed unique under this subsection if the only change to the marketing material from its prior version is a change to a lender's interest rate or loan term information;

E. copies of any internal compliance policies, procedures, or reports concerning the subject matter of the Order; and

F. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

IX. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondents' compliance with this Order:

A. Within 10 days of receipt of a written request from a representative of the Commission, each Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.

B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with each Respondent. Respondents must permit representatives of the Commission to interview anyone affiliated with any Respondent who has agreed to such an interview. The interviewee may have counsel present.

C. The Commission may use all other lawful means, including posing through its

representatives as consumers, suppliers, or other individuals or entities, to Respondents or any individual or entity affiliated with Respondents, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Individual Respondents, pursuant to Section 604(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(2).

X. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission's website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however,* that the filing of such a complaint will not affect the duration of:

A. Any Provision in this Order that terminates in less than 20 years;

B. This Order's application to any Respondent that is not named as a respondent in such complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that the Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

April Tabor
Acting Secretary

SEAL:
ISSUED: