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November 20, 2017

VIA ON-LINE ELECTRONIC SUBMISSION

Donald S. Clark, Esq.
Office of the Secretary
Federal Trade Commission
Constitution Center
400 Seventh Street, S.W.
Washington, D.C. 20024

RE: In the Matter of Victory Media, Inc., a corporation, also doing business as G.I. Jobs, and also doing business as Military Friendly, File No. 162 3210

Dear Secretary Clark:

Since the day the Federal Trade Commission announced our proposed administrative consent order, it has become the pretext for a campaign of disparagement that has targeted Victory Media. The campaign's misrepresentations attack not only our company, but also the FTC, the Department of Defense and the Department of Veterans Affairs. The leaders of the effort have used emails, interviews, mass media, blogs, letters, and word of mouth to spread the smear. Now they are trying to subvert the FTC proceeding itself. Victory Media files this comment to debunk the deception and address the demands of the parties behind the campaign. A Commission docket should not be a medium of unfair and deceptive acts and practices.

Victory Media has been the main target of the vilification, but the ultimate objective of this campaign is more ambitious than crippling a company or polluting a public record. This matter has become a vehicle for advocates of nonprofit organizations to argue that private enterprise cannot be trusted to assist veterans as they transition out of the military. The current assault is merely one attempt to marginalize those who believe the private sector in the United States is qualified to help veterans transition to the private sector in the United States. There is no reason to expect the campaign to end with the comment period, and every reason to expect the advocates to use the comments they file here to further their cause, because they stand to benefit from the exclusion of their competitors.

If the enemies of free enterprise succeed, the devastation of Victory Media would be obvious. Less visible but far greater would be the harm to millions of veterans who benefit from its

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services. Victory Media has inspired thousands of schools and businesses to enhance the opportunities they offer to veterans. Through its publications and promotions, the company has educated veterans and alerted them to the opportunities available. If this veteran-owned business abandons the field, the only beneficiaries would be the individuals and entities seeking to monopolize the space where public institutions and private enterprises complement one another today.

The activity since the October 19 announcement of the Commission's case offers telling examples of the tactics to which the anti-enterprise advocates will resort. Less than an hour after the Commission's press release, one of the advocates emailed a self-congratulatory announcement to stakeholders in the veteran service community. In the email, liberally peppered with labels of "fraudulent," "lying," "shameful" allegations, she claimed credit for exposing Victory Media's Military Friendly Schools Rankings as part of a pay-to-play scheme that had taken in the Department of Veterans Affairs and Department of Education. Her charges were a rehash of a report that she had published before, and which she claims was shared with the FTC. The report appears nowhere in FTC's draft complaint, but her repetition of these falsehoods, along with her claim to have been a confidential supporter of the FTC, has since fueled coverage of the case and commentary about it.

On November 8, the same advocate circulated a draft letter seeking signatures from national service organizations for a potential comment to the FTC. The letter would ask the Commission to order:

the transfer of the trademark for "Military Friendly Schools" to the US Department of Defense (or Veterans Affairs, depending on the wishes of the federal government), and that visitors to the websites MilitaryFriendly.com/Schools and GIJobs.com/schools-for-veterans should be redirected to the US Department of Defense (or Veterans Affairs, depending on the wishes of the federal government). Only the U.S. military (or the federal department that administers the GI Bill) should determine what constitutes a "Military Friendly School."

In addition, the letter calls for the Commission to take Victory Media's profits and use them to compensate veterans or finance investigations into other companies serving veterans. The reason given for this confiscation of Victory Media's assets, brands and services is that Victory Media allegedly is not an appropriate entity to serve veterans. Since the Commission's jurisdiction is limited to for-profit companies, the demand for more investigations is a thinly veiled petition to push the private sector away from veterans.

The clear intent of the campaign is to turn the comment period into a seemingly official and objective source of false claims disguised as facts, just as the earlier proclamations mischaracterized the case. Using the Commission's comment docket to deceive stakeholders and demand special favors poses a grave danger to due process and discourages parties from cooperating with the FTC.

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Unfortunately, the prospect is becoming a reality. Comments consistent with the publicity the advocates generated have already been filed with the FTC, some by the advocates themselves. Victory Media is therefore compelled to correct the record, lest the numerous misrepresentations stand uncontested on the official docket. For several examples of false and unsubstantiated assertions, we note the following:

- One commenter claims Victory Media has engaged in “unscrupulous behavior” as a “lead generator[] that target[s] veterans [] for subprime colleges.” The FTC made no such allegation in its proposed complaint or consent order. There is no truth to the commenter’s claim.
- The same commenter says Victory Media “continues to rely on subprime colleges for revenues....” The FTC made no such allegation in its proposed complaint or consent order. The statement is baseless.
- The same commenter asks in a subsequent comment whether “we can guarantee that there is no pay to play” regarding Victory Media’s Military Friendly rankings. The FTC made no such allegation in its proposed complaint or consent order. Military Friendly Designation is free to any school that can qualify.
- Another commenter claims Victory Media has misrepresented the methodology and weighting behind the Military Friendly designations as “based on many different complex inputs, is statistically driven and then audited by Ernst & Young.” The FTC said no such thing in its proposed complaint or consent order. The allegation in the comment is baseless.
- One commenter alleges that Victory Media is “notorious” in trying to “bilk” military customers of their GI Bill benefits and Federal Tuition Assistance. Again, the FTC made no such allegation in its proposed complaint or consent order. The commenter’s allegation is a fabrication.

Should comments appear to resemble the draft letter circulated to national service organizations, it is important to note the misleading statements and implications it contains, notwithstanding the assertions in the letter:

- The FTC did not allege that Victory Media pushed veterans “to attend subpar predatory colleges that paid for the surreptitious promotion.”
- The FTC did not allege that Victory media earned any profit from subpar colleges.
- The FTC did not allege that Victory Media caused any veteran to lose any money.
- The FTC did not allege any improper influence in Victory Media’s Military Friendly rankings.

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- There is no basis in the proceeding to suggest the confiscation of Victory Media's trademarks or the prohibition of its services.

In short, the FTC has made no allegation in the case that Military Friendly designations were purchased, that any information about school programs was untrue, or that Victory Media deceived DOD or VA. Instead, as the Complaint and the Analysis in Aid of Public Comment explain, the matter concerns different issues. The Analysis says that several sponsoring schools not designated by the respondent as Military Friendly were included in a search engine that Victory Media described as a place to find Military Friendly schools. The Analysis also seeks comments concerning allegations that some messages were not sufficiently qualified to alert readers when they were sponsored. Victory Media was willing to settle the matter because the company's compliance policy embodies the standards in the proposed order.

It is unfortunate that the orderly procedure for an amicable resolution of this matter is now the theater for an unfair assault on a company whose significant value to the veteran community has not been challenged. It is ironic that the demands filling the comment docket and spreading throughout the community would harm the veterans for whom the advocates claim to care. If veterans were to lose access to the Military Friendly list – a far more selective source than government-run lists – they would be less informed about the capabilities of schools. If veterans were to lose access to media supported by advertising, they would lose valuable sources of information – not just *GI Jobs*, but television network news, daily newspapers and global search engines. The effort to vilify Victory Media, the insinuation that advertising is illicit, and the disparagement of profit-making enterprises, is an attack on private enterprise.

We urge the Commission to prevent this proceeding from facilitating the tactics that Victory Media's adversaries have deployed. At stake is more than the future of a veteran-owned business. The anti-enterprise advocates have demonstrated that they are willing to disparage the judgment of the Commission and question the competence of the Departments of Defense and Veterans Affairs. More importantly, the advocates have shown no reluctance to broadcast charges they know to be false about entities that might disagree with them.

Victory Media asks the Commission to consider measures to limit the fallout from a comment docket containing falsehoods. At the very least, the attempt to misrepresent the proceeding deserves a rebuke. The Commission should also consider reviewing comments for obviously deceptive and scandalous claims before they are placed on the docket. And it is worth considering whether the complaint and order warrant final entry in light of the high likelihood that they will be used to perpetuate libel and slander against Victory Media.

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This matter has demonstrated that nonprofit tax status is not a credential of character. Missing so far is the reminder that profits and promotional activities are beneficial to our economic system. The transition space for veterans is large enough for all men and women of good will. Victory Media believes that the government, nonprofits and private sector should work hand in glove in Better-For-Veterans Initiatives.

Sincerely yours,

William C. MacLeod