

ORIGINAL

BEM D. ITIAVKASE

Plaintiff

v.

WRIGHT STATE UNIVERSITY

Defendant

:
:
:
:
:

Case No. 2013-00715

2014 MAY -2 AM 10:56

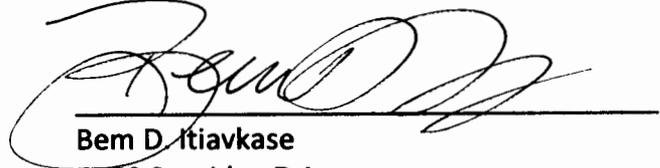
COURT OF CLERKS
OF OHIO

MOTION TO ADMIT EXHIBITS AS EVIDENCE

Now comes plaintiff, Bem D. Itiavkase, and respectfully requests that the court enter what has been marked as Plaintiff's Exhibit 21 as evidence.

Respectfully submitted,

Bem D. Itiavkase



Bem D. Itiavkase
5960 Sunridge Drive
Cincinnati, OH 45224
(513)290-7930
Bemmismaximus@hotmail.com
Plaintiff Pro Se

ON COMPUTER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Request to Admit Exhibits as Evidence was served upon the following counsel of record by ordinary U.S. mail, postage paid, this 24 day of April, 2014.

Peter E. Demarco (0002684)
James P. Dinsmore (0051798)
Assistant Attorneys General
Court of Claims Defense Section
150 East Gay Street, 18th Floor
Columbus, Ohio 43215


Bem D. Itiavkase
Plaintiff Pro Se

Case # 2013 - 00715

Transcribed phone call between James Munch and Joann Bevelhymer; WSU representatives, and Bem D. Itiavkase; Plaintiff, on January 8th, 2014

According to the Ohio Rev. Code § 2933.52, "*If you operate in Ohio, you may record a conversation or phone call if you are a party to the conversation or you get permission from one party to the conversation in advance.*"

Plaintiff - Today is January 8th, 2014 it is 1:10pm.
Time: 11:58th minute into recording

Mr. Munch - Are you Bem?

Plaintiff - Yes sir.

Mr. Munch - (*Inaudible*).....I'm Jim Munch.

Plaintiff - Nice to put a face to a name.

Ms. Bevelhymer - Hi Bem, I'm Joann.

Plaintiff - Hi Joann.

Ms. Bevelhymer - Nice to meet you.
Time: 12:34th minute into recording

Mr. Munch - Why don't you sit down and we'll chat, and uh, you can tell us about, uh, about your situation to try and gather some information. What can we do here...

Plaintiff - Yeah I knew that everything hadn't gone out so this is what I brought. What my issue is, is I received this (*An acceptance letter*) and so because of that I started classes and took, um, uh, yeah, I tarted classes, bought books, and started coming up here and took some classes online and everything was fine. And, I was granted provisional, I am sure you know what provisional entails but, I

printed it out just in case, uh, just to show you this is what it says about having a gpa of 3.0 and after the first semester having all of my classes assessed. And after they were assessed that having them reviewed to see if I would be moved up to conditional. That was my understanding, that was what I was told by Mr. Evans, and again, everything was fine. And then, oh, so then that (*the acceptance letter stating the prerequisites for provisional acceptance*) says the GMAT of 400, and I did a 410, so that met that requirement. So all I had to do basically was finish the semester, have it reviewed and everything would be fine. Uh, then on March 6th, I believe that was only 11, or 12 weeks of the 15 weeks, I got a letter saying that I was rejected, no explanation whatsoever why. So then at that point I enacted the petition for withdraw and I was talking to Mr. Mark Solomon, I've got some of his emails in here (*the packet of printed emails and other paperwork*), but I talked to Mr. Solomon and he said that uh, I should withdraw from the classes and then petition for the refund of the classes, which I did those and that came back quickly but I didn't want that, I wanted to go to school. Um, I had a position ready, only if I was allowed admission into this college, at Wright Patterson Air Force Base. So that kind of messed that up, as well as I'm a veteran and I talked to ROTC to be admitted into that so they would pay for school and not being in school, I couldn't do that either.

Mr. Munch - Yeah, um.....

Plaintiff - So when you got all of the information from being admitted, that's when the parameters changed from the original 3.0 to a 3.25 which I couldn't get because I was averaging, with what I could do, was a 3.14. So when I told Mr. Solomon that, he said that I couldn't...

Mr. Munch - Well...no. The uh...well, first of all, whatever Mike told you, and I appreciate that he was, you know, that he may have said all you need is a 400 GMAT, that's...I mean...before my time. I really can't comment on...on that, but our rules are a 2.5 and a 400 GMAT and the...as I understand it, you got, you achieved the 410, which is great, uh, and so we said to be conditionally admitted...

Plaintiff - (*Interrupts*) Provisionally...

Mr. Munch - ...To be conditionally admitted you need a 3.25 so....

Plaintiff - That is what you sent on the email but I didn't know why the conditional came, which was a grade above the provisional. I never asked.....

Mr. Munch - (*Interrupts*) Conditional is better than provisional....

Plaintiff - I know, I know but I...

Mr. Munch - (*Interrupts*) It...it...

Ms. Bevelhymmer- Because it adds you GMAT score at that point. The provisional is prior to getting you GMAT score.

Plaintiff - Uh huh, and, but the provisional stated that I have the semester to finish and I didn't get that.

Mr. Munch - What did you get?

Plaintiff - I didn't. March 6th was before the semester was over.

Mr. Munch - Um, I'm trying to figure out this sequence of events here.

Plaintiff - So March 6th is when I was told, before the semester was even over, before I even took a final exam, before final exam week came in, I got the rejection...

Ms. Bevelhymmer- (*Interrupts*) But we didn't deny you at that point.....

Plaintiff - (*Interrupts*) Yes! Yes! And...

Ms. Bevelhymmer- Oh, and we, but we said that you could, petition for the conditional...

Plaintiff - And I petitioned...correct.

Ms. Bevelhymmer- So, that's, so it was, you did that process...

Plaintiff - But there was no way to attain the 3.25, that was the issue. I was already above the 3.0, like I originally thought with the provisional, and then when I was told 3.25...

Mr. Munch - (*Interrupts*) Why was there no way to obtain a 3.25?

Plaintiff - I was, I was, I mean, it was the last few weeks and after you already told me that, that was bad news so it wasn't like I could just still focus and...

Mr. Munch - (*interrupts*) But you ended up with a 1.1

- Plaintiff - I didn't end up with a 1.1, I withdrew from my classes; I stopped taking at that point.
- Mr. Munch - Who told you to do this?
- Plaintiff - Um, Mark Solomon.
- Mr. Munch - I...I....why didn't you go to your professors? Or to us? Why did you go to Marck Solomon?
- Plaintiff - Because he is the director of admissions! And he was the only person who would email me back!
- Ms. Bevelhymer- We have business advisors here in our business college who, you are obviously aware of...
- Plaintiff - *(Interrupts)* I talked to Dan as well, Dan...I don't remember his last name right now...
- Ms. Bevelhymer- Dan Dakin?
- Plaintiff - Dan Dakin, yes. So I tried to talk to as many as possible. I went all the way to the President and kept getting kicked down, and kept getting kicked down, and kicked down. Nobody would talk to me about anything. So because the parameters were changed, that was my issue and if I knew I had to get a 3.25 I wouldn't have taken the 5 classes, I would have taken one or two. Whatever the minimum I would have been allowed to take. And I would have guaranteeingly satisfied those requirements.
- Mr. Munch - *(Laughing)* Well, um...*(looking at Ms. Bevelhymer who shakes her head and shrugs)* I'm not sure what we can do for you. Um, well, so what are you looking for now? What would you like?
- Plaintiff - I would like to be re-admitted and be able to take the classes I was taking. All I want to do is go to school. I had it paid for with ROTC but I'm too old now, I can't go that route any more, I have to graduate within 2 years of my 32nd birthday and my 31st birthday is this June.
- Mr. Munch - I'm not sure I have an answer for you at this point. I mean, Joann, the sequence of events we talked about basically...for the 400, you got a 410, for the 2.3 gpa we require a minimum of 2.5, that's part of our admission requirements for an MBA. So that was the...at...at my entering into this position, looking at all of the candidates, we are looking for 400 GMAT's and 2.5 gpa minimum

standards, so what we did was say, ok, give us...even though you don't meet the standard of 2.5 our thinking was well, ok, we'll give you a shot at it but you got to get me a 3.25. So that's where...where we left off the situation. Now, um...

- Plaintiff - My argument is; if I was going to have the gpa changed, I should have the opportunity to take it in a full semester, not the last three weeks of the semester. Or had I'd known that information, I wouldn't have taken so many classes.
- Ms. Bevelhymer- I think probably the MBA committee could hear this?
- Mr. Munch - Yeah, that's fine.
- Ms. Bevelhymer- Um, I could take all of your information to them, the problem is that it wouldn't be before the spring term starts. Were you hoping to start in the spring?
- Plaintiff - I was just hoping to finally talk to somebody and see what's going on.
- Ms. Bevelhymer- You said your school was going to be paid for by the Base?
- Plaintiff - By the ROTC, uh huh.
- Ms. Bevelhymer- Is that still correct if you get into our program?
- Plaintiff - No, because I am too old now, I have to have four semesters. I have to have four full semesters before I turn 32.
- Ms. Bevelhymer- Ok, Ok. So that can't happen.
- Mr. Munch - (*Tapping on the table*) I think the best thing, the best solution for you is that we can put this in front of...we have...our admission process goes through our MBA committee. I am the associate dean who basically handles graduate programs. I don't make... decisions to admit come from a review committee from our MBA...(inaudible) so they say yay or nay on petitions on a regular basis. Unfortunately they...(inaudible)...they probably won't meet again until end of January and we can expedite it as much as we can...they may meet January 15th, you know, uh, next Monday, and they aren't back in session until Monday...(inaudible)...Now as far as, um, how are you going to pay for this thing?
- Plaintiff - I don't know yet. I mean I hadn't even, I mean I already had the loans and those were sent back and Mr. Solomon told me that

because I had to withdraw, that all of that counts as a negative towards my ability to receive future funds, not that they'll say no but, I have not moved on that far ahead yet. I didn't know what you guys could do with the whole taking the classes and the money sent back and spending, I've probably spent like over \$3000 now with the books and all this, so I didn't know if you guys could do anything to help.

Mr. Munch - (*Tapping on the desk and smiling*)

Ms. Bevelhymmer- So you are...uh...you have filed action against the university, we were notified of that a few weeks ago...

Plaintiff - (*Interrupts*) Which I have no problem dropping, I just want this taken care of. I only filed because up until just now, nobody has talked to me. Even on 9/23 (2013) when I sent you an email, you said you'd tell me once that litigation was over, the day it ended I sent you an email saying, "it was dismissed because of jurisdiction, will you talk to me?" Two or three months later you said no, because there was more litigation, and that was because I didn't hear from you.

Ms. Bevelhymmer- And I apologize for that, you know, sometimes I...I don't remember it being two or three months, but, um...

Mr. Munch - We, um...

Plaintiff - And I understand that you guys are busy too

Mr. Munch - When this occurs, our hands are tied. When someone takes an issue forward to our legal department our instructions are basically...deal with the legal department...

Plaintiff - (*Interrupts*) Don't say anything.

Mr. Munch - You made the decision to deal with the legal department....

Plaintiff - Well that was because...

Mr. Munch - (*Interrupts*) And that's fine. I'm not saying you did anything wrong, I'm saying that when that happens, then we are out of the loop and you are dealing in a different level of issues, so for us to say anything, do anything, respond, is not exactly appropriate on our end. Um, I just don't understand this. It's not like we wanted to ignore anyone if you feel that way...

- Plaintiff - I definitely feel that way.
- Mr. Munch - But, you know....
- Plaintiff - And...like...I noticed I didn't...well I did this before, but I sent...when I sent emails to Mr. Ayres, I attached you on it just because I saw your name on there, I didn't know who you were at the time, I just attached you on it when I sent him stuff and...and um, he didn't care, he definitely didn't care. Um, and uh, I was told to talk to the President and I talked to him, and he didn't say a word, he bumped me to his assistant who said to talk to, um, um, the...Mr. Sweeney, and he sounded like he cared, he was like, "I can't believe that happened?" "Send me the paperwork." "I'll look into it." "We'll do everything we can." Then says "sorry, we can't do anything."
- Mr. Munch - The issue...the issue...the 1.1 gpa, the 3.25, and being so far away and not following up in any of these classes, despite what someone, some administrator over there said, we really, I really wish you would have been able to come and talk to us and talk to the deans here and talk to the faculty at the time at the college of business. A lot of this happened in a way that is out of our control.
- Plaintiff - When it happened, um, Ms. Johnson, well, I called Ms. Johnson and this is one of the reasons I was talking to everybody as I could, I talked to Ms. Johnson and I said hey, I was given admission by your..I explained everything I explained to you...and she said, "well you weren't even supposed to be allowed into the program." Well, A. you didn't have to be rude and act like that; B. I was admitted and satisfied everything; and C. Had I'd known 3.25, I would have taken one class. So, everybody has been...not you guys...so far, but everyone has been acting like I did something wrong by even trying for admission to this school.
- Mr. Munch - (*Laughing*)
- Plaintiff - And I know there has been drama with Mr. Evans, I talked to him, and I don't care, it's none of my business I just don't want to be affected by it. I don't want you to say (*inaudible*)...my time and...(*inaudible*) here's the paperwork saying 3.0 provisional and then being allowed in on conditional within the same parameters of provisional that's where I am like, well, if you are counting that semester, it should be counted under provisional, and then look into conditional for the next. That's the natural evolving I thought was going to happen.

- Mr. Munch - I think at first you were admitted provisionally, and then the condition, is there not a condition letter with the 3.25?
- Plaintiff - There is. There is. That was just...it was a regular email from...there was no letter like that (*pointing to the physical admission letter from November 28th, 2012*) it was just a regular email from Ms. Johnson that just said 3.2....I've got the email in here somewhere...
- Ms. Bevelhymmer- The one thing I will say, based on your scores right now, the 2.3 and 410 GMAT only gives you an index of 870. So, for conditional admission, you must have at least a 900. So if the MBA committee, you know, when they review your information, I think that at the very least, they're going to tell you to re-take the GMAT. So, I just want to kind of, so...based on our experience...(inaudible)....
- Plaintiff - But I never petitioned for a conditional, I petitioned for what I was originally admitted for, which was provisional.
- Ms. Bevelhymmer- And you can petition for that through the MBA committee, however, it's unlikely that they are going to approve that. So...
- Plaintiff - So being approved on it already, then having it changed on me before the semester was over, they're not going to see how....
- Ms. Bevelhymmer- I'm just trying to kind of tell you realistically and based on what they've, you know, their past precedent, they're probably not going to approve that. So, they may, though, give you a conditional but they are more than likely going to want you to go ahead and re-do the GMAT so that you can raise that index score, and you would need to get another 30 points on your GMAT to get you to the 900. So if you at least had a 440, that would get you to the 900 index, they'd still have to consider your undergrad gpa, how much they are going to rate that...um...but I am just thinking you know they might be willing to admit you conditionally, but they're probably going to ask you to take the GMAT. Have you just taken it the one time?
- Plaintiff - I took it a second time and got the exact same number.
- Ms. Bevelhymmer- 410?
- Plaintiff - Uh huh.

- Mr. Munch - All I can tell you Bem is that we will present your information to the MBA committee, let them take a look at it, and try to come up with a judgment as to, you know, whether they feel, you know, this has been...whether you should be conditionally admitted, given another chance, whether it's a done deal and they're going to deny, I can't control that.
- Plaintiff - So how is it that Mr. Evan was able to let me in under the provisional but then nobody....
- Mr. Munch - (*Intererupts*) I don't know. But that's not the process. Whatever Mr. Evans did or didn't do, I mean that's why, probably why Mr. Evans isn't doing that job any more. Ok. So. You know...the, the decisions that were made by Mr. Evans....I can't...I can't, uh, I can't really, I don't know anything.
- Plaintiff - The ironic thing is that had I'd not gotten that denial letter, I would've finished with a 3.0 or 3.1 and I'd be almost done, half way done with my MBA by now. So I don't know why it was...
- Mr. Munch - Knowing that there's...since I came into this theme where we've looked at...I have looked at situations and said, ok, here are, our rules are in writing, say, a 2.5 gpa and a 400 GMAT are minimal requirements and then the gpa times 2 plus the GMAT have to come up to 1100 or higher, those are our rules, and I didn't make those rules.
- Plaintiff - I understand.
- Mr. Munch - Those rules have always been in place. So whatever Mike Evans did, is unbeknownst to me. I don't know. I...when I...since I've been down here, we've done everything to comply with the rules. If there is a situation where there's a student who...who would like to petition, and we've had, I don't know, maybe a dozen or so, that want to petition for admission, we've put those cases in front of the MBA committee. And they have made decisions on them. That's been our process. There's not been a process where, um, certain exceptions were made by individuals and an MBA committee process wasn't used as well. Uh, and that's basically all I can say in this matter. I see what you're saying I just..um...the challenge I have personally is looking at that 1.1 and 2.3 and try to convince myself that somehow, you can get through this MBA program and....you know.

Plaintiff - The 1.1 is what I don't understand. Where did 1.1 even come from? I withdrew from everything so technically I shouldn't even have any....

Ms. Bevelhymer- (*Interrupts*) You petitioned to have W's. You received a 1.1, but it was for the semester and then you petitioned to have everything removed.

Plaintiff - And I stopped going to school, that's why whatever...

Ms. Bevelhymer- (*Interrupts*) But you still earned a 1.1.

Plaintiff - So because I stopped....

Ms. Bevelhymer- You got F's.

Plaintiff - Ok. Ok.

Mr. Munch - You stopped and got F's. And that, that is (*sighs*)...

Plaintiff - Well I mean, it's...I wasn't getting a .25, so it was almost no point in continuing.

Mr. Munch - No, no, no, no, no....

Ms. Bevelhymer- 3.25

Plaintiff - 3.25, yeah, 3.25, sorry.

Mr. Munch - But why weren't you? Because you knew you couldn't get a 3.25 in the classes you were in at the time?

Plaintiff - Correct, correct. And it was discouraging having it taken up .25 under my original assumption under provisional 3.0. So when I had, at that time, I was confident I would have...

Mr. Munch - (*Interrupts*) That was the moment you should've come to the MBA, to our college.

Plaintiff - But when I talked to Amy, she said I shouldn't have been admitted, that just kind of sounded like you guys didn't even want me to do anything. She said you shouldn't even be here basically. So coming to talk to somebody after hearing something like that after getting something like this (*rejection letter before semester was over*) is not really encouraging to try to fight to stay in the school that clearly, at the time, clearly didn't want me in it. So, she should

either take etiquette classes or stop telling people they shouldn't be in when they are.

- Mr. Munch - (*Tapping on the desk*) We will take your information and put it in front of the MBA committee and get back to you with their response as soon as they meet. It will be sometime in mid to late January I might guess. And it's going to cause issues with your particular spring semester trying to continue in spring and I'm sorry for that, um, but that's where we're at.
- Plaintiff - Ok.
- Mr. Munch - As far as any kind of support, that's way above my pay grade. If that was something you were trying to negotiate for, I can't comment on that.
- Plaintiff - If you can send me in the proper direction on that then I will be happy to go talk to them about it.
- Mr. Munch - I don't know if there is a proper direction, other than you taking legal action.
- Plaintiff - Uh huh, ok. Alrighty.
- Mr. Munch - So, we will, can we make copies of these?
- Plaintiff - I can send those to you...oh, yeah, yeah, you can make copies now.
- Ms. Bevelhymmer- I believe that...all of the is in (*inaudible*)...
- Plaintiff - Um, not all of this.
- Mr. Munch - Why don't you take that and make copies of everything and we can say here's the MBA, here's what we want before us and show it to the MBA committee and the can...(*inaudible*)...and come up with an evaluation.
- Ms. Bevelhymmer- Ok. I will be right back.
- Plaintiff - See, that was when I talked with Mr. Solomon. That was the email I sent to him saying what was going on...
- Ms. Bevelhymmer- (*Inaudible question*)
- Plaintiff - That one does not.

Ms. Bevelhymmer- Ok. Do you have anything else?

Mr. Munch - Everything you've got, we'll take everything.

Plaintiff - In that case, you can have it all (*laughing*).

Ms. Bevelhymmer- Do you want to have a seat out front and I will have someone copy this? It's going to take a few minutes.

Plaintiff - That's fine.

Mr. Munch - Thanks Bem, I am sorry that this whole mess has happened. Um, and we'll go forward and see if we can get some kind of resolution and I hope that (*inaudible*)...

Plaintiff - I understand. Thank you.

Time: 44:36th minute into recording

Mr. Munch - Hey Bem.

Plaintiff - Yes sir.

Mr. Munch - I am trying to understand the time of events, and the letter that you got from Amy Johnson on March 6th was automatic, I want you to understand this, automatically triggered because your index, your gpa and your GMAT, was under 900. So that was the moment that said if you have any questions, that was the moment you could petition. And so, we gave you a conditional of 3.25. So that's why that happens. So it wasn't as though some rule got changed, the rule is always in place at the graduate school, of the 1100 index, between 900 and 1100 is conditional, you didn't make 900, because 2.3 times two plus 410 adds up to whatever it adds up to, eight hundred ninety something, whatever, so..so...

Plaintiff - That kind of makes sense...

Mr. Munch - I'm trying to understand why you would have ever gotten that letter. You got that letter as an automatic letter that gets triggered by our graduate school if someone fails to meet the minimum 900 index, to be allowed to be conditionally admitted. Then, as a matter of petition, we came back and said, ok, we'll give you a shot at this, show me a 3.25 in 9 credit hours. That was the letter that Joann sent you. That's what happened. So, I don't know what the

MBA committee is going to say about all this but I want you to understand how....

Plaintiff - Yeah, that makes more sense. Yeah, I thought she looked at it and sent it to me but ok.

Mr. Munch - She has nothing to do with it. It was an automatic letter that got triggered through her office. It always gets triggered when someone doesn't make the index for the graduate school. Ok? Just so you get it. I was thinking that it doesn't make sense to me, now it makes sense.

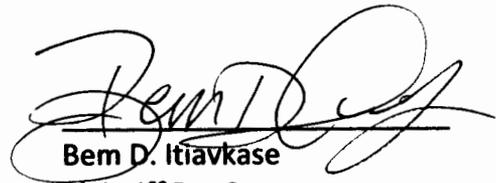
Plaintiff - Ok. Thank you.

Mr. Munch - We'll let you know something as soon as we know something.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Request for mediation was served upon the following counsel of record by ordinary U.S. mail, postage paid, this 24 day of April, 2014.

Peter E. Demarco (0002684)
James P. Dinsmore (0051798)
Assistant Attorneys General
Court of Claims Defense Section
150 East Gay Street, 18th Floor
Columbus, Ohio 43215


Bem D. Itiavkase
Plaintiff Pro Se