

ASPEN GROUP, INC.
Form S-3
April 11, 2018

Registration No. 333-_____

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ASPEN GROUP, INC.

(Exact name of registrant as specified in its charter)

Delaware	8200	27-1933597
<i>(State or other jurisdiction of incorporation or organization)</i>	<i>(Primary Standard Industrial Classification Code Number)</i>	<i>(I.R.S. Employer Identification No.)</i>

1660 S Albion Street, Suite 525, Denver, CO

(303) 333-4224

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Michael Mathews

1660 S Albion Street, Suite 525, Denver, CO

(303) 333-4224

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the Securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, other than securities offering only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

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If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. "

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. "

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company.

Large accelerated filer "
Non-accelerated filer "

Accelerated filer "
Smaller reporting company
Emerging growth company "

If an emerging growth company, indicate by checkmark if the registrant has not elected to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. "

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered (1)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee(3)
Common Stock, par value \$0.001 per share		
Preferred Stock, par value \$0.001 per share		
Debt Securities		
Warrants		
Units		
Total	\$ 60,000,000	\$ 7,470

- (1) This registration statement includes \$60,000,000 of securities which may be issued by the registrant from time to time in indeterminable amounts and at indeterminable times. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder. Including also such indeterminate amounts and numbers of securities as may be issued in primary offerings or upon exercise, or exchange of any securities registered hereunder that provide for exercise, or exchange, including pursuant to anti-dilution provisions of any such securities.
- (2) The proposed maximum offering price per share will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered hereunder. Not specified as to each class of securities to be registered pursuant to General Instruction II.D to Form S-3 under the Securities Act of 1933.
- (3) Calculated pursuant to Rule 457(o) of the rules and regulations of the Securities Act of 1933.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission of which this prospectus is a part becomes effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, Dated April 11, 2018

PROSPECTUS

\$60,000,000

Aspen Group, Inc.

Common Stock

Preferred Stock

Debt Securities

Warrants

Units

Aspen Group, Inc. intends to offer and sell from time to time the securities described in this prospectus. The total offering price of the securities described in this prospectus will not exceed a total of \$60,000,000.

This prospectus describes some of the general terms that apply to the securities. We will provide specific terms of any securities we may offer in supplements to this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest. We also may authorize one or more free writing prospectuses to be provided to you in connection with the offering. The prospectus supplement and any free writing prospectus also may add, update or change information contained or incorporated in this prospectus.

We may offer and sell these securities to or through one or more underwriters, dealers or agents, or directly to purchasers on a continuous or delayed basis. The prospectus supplement for each offering of securities will describe the plan of distribution for that offering. For general information about the distribution of securities offered, see **Plan of Distribution** in this prospectus. The prospectus supplement also will set forth the price to the public of the securities and the net proceeds that we expect to receive from the sale of such securities.

Our common stock is traded on The Nasdaq Capital Market under the symbol **ASPU**. On April 10, 2018, the last reported sales price of our common stock on The Nasdaq Capital Market was \$7.06 per share.

Investing in our securities involves risks. You should read carefully and consider **Risk Factors included in our most recent Annual Report on Form 10-K and on page 3 of this prospectus and in the applicable prospectus supplement before investing in our securities.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined whether this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2018

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You should rely only on information contained in this prospectus. We have not authorized anyone to provide you with information that is different from that contained in this prospectus. We are not offering to sell or seeking offers to buy shares of common stock in jurisdictions where offers and sales are not permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of our common stock. We are responsible for updating this prospectus to ensure that all material information is included and will update this prospectus to the extent required by law.

PROSPECTUS SUMMARY

This summary only highlights the more detailed information appearing elsewhere in this prospectus or incorporated by reference in this prospectus. It may not contain all of the information that is important to you. You should carefully read the entire prospectus and the documents incorporated by reference in this prospectus before deciding whether to invest in our securities. Unless otherwise indicated or the context requires otherwise, in this prospectus and any prospectus supplement hereto references to AGI we, us, and our refer to Aspen Group, Inc. and its consolidated subsidiaries.

About This Prospectus

This prospectus is part of a shelf registration statement that we have filed with the Securities and Exchange Commission or the SEC. By using a shelf registration statement, we may sell, at any time and from time to time, in one or more offerings, any combination of the securities described in this prospectus. The exhibits to our registration statement contain the full text of certain contracts and other important documents we have summarized in this prospectus. Since these summaries may not contain all the information that you may find important in deciding whether to purchase the securities we offer, you should review the full text of these documents. The registration statement and the exhibits can be obtained from the SEC as indicated under the section entitled Incorporation of Certain Information by Reference.

This prospectus only provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that contains specific information about the terms of those securities. The prospectus supplement also may add, update or change information contained in this prospectus. If there is an inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in the prospectus supplement. You should read carefully both this prospectus and any prospectus supplement together with the additional information described below under the section entitled Incorporation of Certain Information by Reference.

We are not making an offer of these securities in any jurisdiction where the offer is not permitted. You should not assume that the information in this prospectus or a prospectus supplement is accurate as of any date other than the date on the front of the document.

Our Company

AGI is a post-secondary education company with an overarching vision of making higher education affordable again in America. Because we believe higher education should be a catalyst to our students' long-term economic success, we exert financial prudence by offering affordable tuition that is one of the greatest values in online higher education. AGI has two subsidiaries, Aspen University Inc. (Aspen or Aspen University) and United States University Inc. (USU).

Corporate Information

Our principal executive offices are located at 1660 S Albion Street, Suite 525, Denver, Colorado 80222 and our telephone number is (303) 333-4224. Our corporate website address is <https://ir.aspen.edu>. The information on our website is not incorporated into this prospectus.

CAUTIONARY NOTE REGARDING FORWARD LOOKING STATEMENTS

This prospectus including the documents incorporated by reference contains forward-looking statements. All statements other than statements of historical facts, including statements regarding our future financial position, liquidity, business strategy and plans and objectives of management for future operations, are forward-looking statements. The words believe, may, estimate, continue, anticipate, intend, should, plan, could, target, likely, will, expect and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs.

The results anticipated by any or all of these forward-looking statements might not occur. Important factors, uncertainties and risks that may cause actual results to differ materially from these forward-looking statements are contained in the risk factors that follow and elsewhere in this prospectus and the incorporated documents. We undertake no obligation to publicly update or revise any forward-looking statements, whether as the result of new information, future events or otherwise. For more information regarding some of the ongoing risks and uncertainties of our business, see the risk factors that follow and or that are disclosed in our incorporated documents.

RISK FACTORS

Investing in our securities involves risks. Before purchasing the securities offered by this prospectus you should consider carefully the risk factors described below, as well as the risks, uncertainties and additional information (i) set forth in our reports on Forms 10-K, 10-Q and 8-K that we file with the SEC after the date of this prospectus and which are deemed incorporated by reference in this prospectus, and (ii) the information contained in any applicable prospectus supplement. For a description of these reports and documents, and information about where you can find them, see [Incorporation of Certain Information By Reference](#). The risks and uncertainties we discuss in this prospectus and in the documents incorporated by reference in this prospectus are those that we currently believe may materially affect our company. Additional risks not presently known, or currently deemed immaterial, also could materially and adversely affect our financial condition, results of operations, business and prospects.

Risks Relating to Our Business

AGI's future operating results will be adversely affected if it does not effectively manage its expanded operations and integrate USU.

We completed the acquisition of USU on December 1, 2017 (the [Acquisition](#)). Following the Acquisition, the size of our business is larger and our revenues are increasing substantially. USU was a smaller institution that was losing money and not growing but offered a strategic advantage to our future plans. Our future success will depend, in part, upon our ability to integrate USU, manage this expanded business and replicate the marketing success we have had with Aspen University for USU, which will pose substantial challenges for AGI's and USU's management. We cannot assure you that the combined company will be successful or that the combined company will realize the expected marketing success, operating efficiencies, synergies, revenue enhancements and other benefits currently anticipated to result from the Acquisition.

If we cannot manage our growth, our results of operations may suffer and could adversely affect our ability to comply with federal regulations.

The growth that we have experienced after our new management began in 2011, as well as any future growth that we experience, may place a significant strain on our resources and increase demands on our management information and reporting systems and financial management controls. We have experienced growth at Aspen University over the last several years. Assuming we continue to grow as planned, it may impact our ability to manage our business. If growth negatively impacts our ability to manage our business, the learning experience for our students could be adversely affected, resulting in a higher rate of student attrition and fewer student referrals. Future growth will also require

continued improvement of our internal controls and systems, particularly those related to complying with federal regulations under the Higher Education Act, as administered by DOE, including as a result of our participation in federal student financial aid programs under Title IV. If we are unable to manage our growth, we may also experience operating inefficiencies that could increase our costs and adversely affect our profitability and results of operations.

If we are unable to raise capital, we will have to scale back our growth.

Under our senior secured \$10 million credit facility, we drew \$5 million at closing and an additional \$2.5 million on December 4, 2017 with the understanding that we would draw the remaining \$2.5 million by the October 2018 deadline. On March 16, 2018, our lender for the first time contended that we were not entitled to borrow the second \$5 million in two installments. Consequently, we are seeking to raise additional capital. Because we expect that AGI will be cash flow negative for at least the first two quarters of the upcoming 2019 fiscal year (due to USU and our hybrid online campus program expected to open in July), we will need to raise at least \$2.5 of equity or subordinated debt by October. If we are unable to raise the capital, we will have to scale back our operations and limit our future growth.

Because there is strong competition in the postsecondary education market, especially in the online education market, our cost of acquiring students may increase and our results of operations may be harmed.

Postsecondary education is highly fragmented and competitive. We compete with traditional public and private two-year and four-year brick and mortar colleges as well as other for-profit schools. Public and private colleges and universities, as well as other for-profit schools, offer programs similar to those we offer. Public institutions receive substantial government subsidies, and public and private institutions have access to government and foundation grants, tax-deductible contributions that create large endowments and other financial resources generally not available to for-profit schools. Accordingly, public and private institutions may have instructional and support resources that are superior to those in the for-profit sector. In addition, some of our competitors, including both traditional colleges and universities and online for-profit schools, have substantially greater name recognition and financial and other resources than we have, which may enable them to compete more effectively for potential students. We also expect to face increased competition as a result of new entrants to the online education market, including established colleges and universities that have not previously offered online education programs. Major brick and mortar universities continue to develop and advertise their online course offerings. Purdue University's 2017 acquisition of Kaplan University is a prime example of this change.

We may not be able to compete successfully against current or future competitors and may face competitive pressures including price pressures that could adversely affect our business or results of operations and reduce our operating margins. These competitive factors could cause our enrollments, revenues and profitability to materially decrease.

In the event that we are unable to update and expand the content of existing programs and develop new programs and specializations on a timely basis and in a cost-effective manner, our results of operations may be harmed.

The updates and expansions of our existing programs and the development of new programs and specializations may not be accepted by existing or prospective students or employers. If we cannot respond to changes in market requirements, our business may be adversely affected. Even if we are able to develop acceptable new programs, we may not be able to introduce these new programs as quickly as students require or as quickly as our competitors introduce competing programs. To offer a new academic program, we may be required to obtain appropriate federal, state and accrediting agency approvals, which may be conditioned or delayed in a manner that could significantly affect our growth plans. In addition, a new academic program that must prepare students for gainful employment must be approved by DOE for Title IV purposes if the institution is provisionally certified. If we are unable to respond adequately to changes in market requirements due to financial constraints, regulatory limitations or other factors, our ability to attract and retain students could be impaired and our financial results could suffer.

Establishing new academic programs or modifying existing programs may require us to make investments in management and faculty, incur marketing expenses and reallocate other resources. If we are unable to increase the number of students, or offer new programs in a cost-effective manner, or are otherwise unable to manage effectively the operations of newly established academic programs, our results of operations and financial condition could be adversely affected.

Because our future growth and profitability will depend in large part upon the effectiveness of our marketing and advertising efforts, if those efforts are unsuccessful we may not be profitable in the future.

Our future growth and profitability will depend in large part upon our media performance, including our ability to:

- Grow our nursing programs including Aspen University's core Bachelor's and Master's Degree programs, USU's family nurse practitioner program and Aspen University's pre-licensure BSN hybrid online/campus program we expect to open in July 2018;
- Replicating the success we have had with nursing in other programs;
- Achieve the same degree of success with USU;
- Create greater awareness of our school and our programs;
- Identify the most effective and efficient level of spending in each market and specific media vehicle;
- Determine the appropriate creative message and media mix for advertising, marketing and promotional expenditures; and
- Effectively manage marketing costs (including creative and media); and increase our line of credit to support such growth.

Our marketing expenditures may not result in increased revenue or generate sufficient levels of brand name and program awareness. If our media performance is not effective, our future results of operations and financial condition will be adversely affected.

Although our management has successfully implemented a monthly payment business model, it may not be successful long-term.

Mr. Michael Mathews, our Chief Executive Officer, has developed a monthly payment business model designed to substantially increase our student enrollment and reduce student debt among Aspen University's and USU's student bodies. While results to date have been as anticipated, there are no assurances that this marketing campaign will continue to be successful. Among the risks are the following:

- Our ability to compete with existing online colleges which have substantially greater financial resources, deeper management and academic resources, and enhanced public reputations;
- The emergence of more successful competitors;
- Factors related to our marketing, including the costs of Internet advertising and broad-based branding campaigns;
- Limits on our ability to attract and retain effective employees because of the incentive compensation rule;
- Performance problems with our online systems;
- Our failure to maintain accreditation;
- Student dissatisfaction with our services and programs;
- Adverse publicity regarding us, our competitors or online or for-profit education generally;
- A decline in the acceptance of online education;
- A decrease in the perceived or actual economic benefits that students derive from our programs;
- Potential students may not be able to afford the monthly payments; and
- Potential USU students may not react favorably to our marketing and advertising campaigns, including our monthly payment plan.

If our monthly payment plan business model does not continue to be favorably received, our revenues may not increase.

If the demand for the nursing workforce decreases or the educational requirements for nurses were relaxed, our business will be adversely affected.

Aspen University's recent focus has been the continued growth of enrollment in its School of Nursing. As of January 31, 2018, approximately 73% of our active degree-seeking were enrolled in Aspen University's School of Nursing. If the demand for nurses does not continue to grow (or declines) or there are changes within the healthcare industry that make the nursing occupation less attractive to learners or reduce the benefits of a bachelors or an advanced degree, our enrollment and results of operations will be adversely affected.

If we incur system disruptions to our online computer networks, it could impact our ability to generate revenue and damage our reputation, limiting our ability to attract and retain students.

Since early 2011, Aspen University has made significant investments to update its computer network primarily to permit accelerated student enrollment and enhance its students' learning experience. We expect to spend approximately \$2,000,000 in capital expenditures over the next 12 months. The performance and reliability of our technology infrastructure is critical to our reputation and ability to attract and retain students. Any system error or failure, or a sudden and significant increase in bandwidth usage, could result in the unavailability of our online classroom, damaging our reputation and could cause a loss in enrollment. Our technology infrastructure could be vulnerable to interruption or malfunction due to events beyond our control, including natural disasters, terrorist activities and telecommunications failures.

If we are unable to develop awareness among, and attract and retain, high quality learners to Aspen University, our ability to generate significant revenue or achieve profitability will be significantly impaired.

Building awareness of Aspen University and the programs we offer among working adult professionals is critical to our ability to attract prospective learners. If we are unable to successfully market and advertise our educational programs, Aspen University's ability to attract and enroll prospective learners in such programs could be adversely affected, and consequently, our ability to increase revenue or achieve profitability could be impaired. It is also critical to our success that we convert these prospective learners to enrolled learners in a cost-effective manner and that these enrolled learners remain active in our programs. Some of the factors that could prevent us from successfully enrolling and retaining learners in our programs include:

- The emergence of more successful competitors;
- Factors related to our marketing, including the costs of Internet advertising and broad-based branding campaigns;
- Performance problems with our online systems;
- Failure to maintain accreditation;
- Learner dissatisfaction with our services and programs, including with our customer service and responsiveness;
- Adverse publicity regarding us, our competitors, or online or for-profit education in general;
- Price reductions by competitors that we are unwilling or unable to match;
- A decline in the acceptance of online education or our degree offerings by learners or current and prospective employers;
- Increased regulation of online education, including in states in which we do not have a physical presence;
- A decrease in the perceived or actual economic benefits that learners derive from our programs;
- Litigation or regulatory investigations that may damage our reputation; and
- Difficulties in executing on our strategy as a preferred provider to employers for the vertical markets we serve.

If we are unable to continue to develop awareness of Aspen University and the programs we offer, and to enroll and retain learners, our enrollments would suffer and our ability to increase revenues and achieve profitability would be significantly impaired.

If we experience any interruption to our technology infrastructure, it could prevent students from accessing their courses, could have a material adverse effect on our ability to attract and retain students and could require us to incur additional expenses to correct or mitigate the interruption.

Our computer networks may also be vulnerable to unauthorized access, computer hackers, computer viruses and other security problems. A user who circumvents security measures could misappropriate proprietary information, personal information about our students or cause interruptions or malfunctions in operations. As a result, we may be required to expend significant resources to protect against the threat of these security breaches or to alleviate problems caused by these breaches.

Because we rely on third parties to provide services in running our operations, if any of these parties fail to provide the agreed services at an acceptable level, it could limit our ability to provide services and/or cause student dissatisfaction, either of which could adversely affect our business.

We rely on third parties to provide us with services in order for us to efficiently and securely operate our business including our computer network and the courses we offer to students. Any interruption in our ability to obtain the services of these or other third parties or deterioration in their performance could impair the quality of our educational product and overall business. Generally, there are multiple sources for the services we purchase. Our business could be disrupted if we were required to replace any of these third parties, especially if the replacement became necessary on short notice, which could adversely affect our business and results of operations.

If we or our service providers are unable to update the technology that we rely upon to offer online education, our future growth may be impaired.

We believe that continued growth will require our service providers to increase the capacity and capabilities of their technology infrastructure. Increasing the capacity and capabilities of the technology infrastructure will require these third parties to invest capital, time and resources, and there is no assurance that even with sufficient investment their systems will be scalable to accommodate future growth. Our service providers may also need to invest capital, time and resources to update their technology in response to competitive pressures in the marketplace. If they are unwilling or unable to increase the capacity of their resources or update their resources appropriately and we cannot change over to other service providers efficiently, our ability to handle growth, our ability to attract or retain students, and our financial condition and results of operations could be adversely affected.

Because we rely on third-party administration and hosting of learning management system software for our online classroom, if that third-party were to cease to do business or alter its business practices and services, it could have an adverse impact on our ability to operate.

Beginning in June 2014, our online classroom at Aspen University began employing the Desire2Learn learning management system named Brightspace, followed by USU in 2017. The system is a web-based portal that stores and delivers course content, provides interactive communication between students and faculty, and supplies online evaluation tools. We rely on third parties to host and help with the administration of it. We further rely on third parties, the D2L agreement and our internal staff for ongoing support and customization and integration of the system with the rest of our technology infrastructure. If D2L were unable or unwilling to continue to provide us with service, we may have difficulty maintaining the software required for our online classroom or updating it for future technological changes. Any failure to maintain our online classroom would have an adverse impact on our operations, damage our reputation and limit our ability to attract and retain students.

Because the personal information that we or our vendors collect may be vulnerable to breach, theft or loss, any of these factors could adversely affect our reputation and operations.

Possession and use of personal information in our operations subjects us to risks and costs that could harm our business. Aspen University and USU use a third-party to collect and retain large amounts of personal information regarding our students and their families, including social security numbers, tax return information, personal and family financial data and credit card numbers. We also collect and maintain personal information of our employees in the ordinary course of our business. Some of this personal information is held and managed by certain of our vendors. Errors in the storage, use or transmission of personal information could result in a breach of student or employee privacy. Possession and use of personal information in our operations also subjects us to legislative and regulatory burdens that could require notification of data breaches, restrict our use of personal information, and cause us to lose

our certification to participate in the Title IV Programs. We cannot guarantee that there will not be a breach, loss or theft of personal information that we store or our third parties store. A breach, theft or loss of personal information regarding our students and their families or our employees that is held by us or our vendors could have a material adverse effect on our reputation and results of operations and result in liability under state and federal privacy statutes and legal or administrative actions by state attorneys general, private litigants, and federal regulators any of which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Because the CAN-SPAM Act imposes certain obligations on the senders of commercial emails, it could adversely impact our ability to market Aspen University s and USU s educational services, and otherwise increase the costs of our business.

The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, or the CAN-SPAM Act, establishes requirements for commercial email and specifies penalties for commercial email that violates the CAN-SPAM Act. In addition, the CAN-SPAM Act gives consumers the right to require third parties to stop sending them commercial email.

The CAN-SPAM Act covers email sent for the primary purpose of advertising or promoting a commercial product, service, or Internet website. The Federal Trade Commission, a federal consumer protection agency, is primarily responsible for enforcing the CAN-SPAM Act, and the Department of Justice, other federal agencies, State Attorneys General, and Internet service providers also have authority to enforce certain of its provisions.

The CAN-SPAM Act's main provisions include:

- Prohibiting false or misleading email header information;
- Prohibiting the use of deceptive subject lines;
- Ensuring that recipients may, for at least 30 days after an email is sent, opt out of receiving future commercial email messages from the sender;
- Requiring that commercial email be identified as a solicitation or advertisement unless the recipient affirmatively permitted the message; and
- Requiring that the sender include a valid postal address in the email message.

The CAN-SPAM Act also prohibits unlawful acquisition of email addresses, such as through directory harvesting and transmission of commercial emails by unauthorized means, such as through relaying messages with the intent to deceive recipients as to the origin of such messages.

Violations of the CAN-SPAM Act's provisions can result in criminal and civil penalties, including statutory penalties that can be based in part upon the number of emails sent, with enhanced penalties for commercial email companies who harvest email addresses, use dictionary attack patterns to generate email addresses, and/or relay emails through a network without permission.

The CAN-SPAM Act acknowledges that the Internet offers unique opportunities for the development and growth of frictionless commerce, and the CAN-SPAM Act was passed, in part, to enhance the likelihood that wanted commercial email messages would be received.

The CAN-SPAM Act preempts, or blocks, most state restrictions specific to email, except for rules against falsity or deception in commercial email, fraud and computer crime. The scope of these exceptions, however, is not settled, and some states have adopted email regulations that, if upheld, could impose liabilities and compliance burdens in addition to those imposed by the CAN-SPAM Act.

Moreover, some foreign countries, including the countries of the European Union, have regulated the distribution of commercial email and the online collection and disclosure of personal information. Foreign governments may attempt to apply their laws extraterritorially or through treaties or other arrangements with U.S. governmental entities.

Because we use email marketing, our requirement to comply with the CAN-SPAM Act could adversely affect our marketing activities and increase its costs.

If we lose the services of key personnel, it could adversely affect our business.

Our future success depends, in part, on our ability to attract and retain key personnel. Our future also depends on the continued services of Mr. Michael Mathews, our Chief Executive Officer, Mr. Gerard Wendolowski, our Chief Operating Officer, and Dr. Cheri St. Arnauld, our Chief Academic Officer, who are critical to the management of our business and operations and the development of our strategic direction and would also be difficult to replace. We have a \$3 million key man life insurance policy on Mr. Mathews. The loss of the services of Mr. Mathews and other key individuals and the process to replace these individuals would involve significant time and expense and may significantly delay or prevent the achievement of our business objectives.

If we are unable to attract and retain our faculty, administrators, management and skilled personnel, we may not be able to support our growth strategy.

To execute our growth strategy, we must attract and retain highly qualified faculty, administrators, management and skilled personnel. Competition for hiring these individuals is intense, especially with regard to faculty in specialized areas. If we fail to attract new skilled personnel or faculty or fail to retain and motivate our existing faculty, administrators, management and skilled personnel, our business and growth prospects could be severely harmed. Further, we are moving to a new hybrid model focused on using full-time faculty members in addition to adjunct or part-time faculty. These efforts may not be successful resulting in the loss of faculty and difficulties in recruiting.

If we are unable to protect our intellectual property, our business could be harmed.

In the ordinary course of our business, we develop intellectual property of many kinds that is or will be the subject of copyright, trademark, service mark, trade secret or other protections. This intellectual property includes but is not limited to courseware materials, business know-how and internal processes and procedures developed to respond to the requirements of operating and various education regulatory agencies. We rely on a combination of copyrights, trademarks, service marks, trade secrets, domain names, agreements and registrations to protect our intellectual property. We rely on service mark and trademark protection in the U.S. to protect our rights to the marks ASPEN UNIVERSITY and UNITED STATES UNIVERSITY as well as distinctive logos and other marks associated with our services. We rely on agreements under which we obtain rights to use course content developed by faculty members and other third-party content experts. We cannot assure you that the measures that we take will be adequate or that we have secured, or will be able to secure, appropriate protections for all of our proprietary rights in the U.S. or select foreign jurisdictions, or that third parties will not infringe upon or violate our proprietary rights. Despite our efforts to protect these rights, unauthorized third parties may attempt to duplicate or copy the proprietary aspects of our curricula, online resource material and other content, and offer competing programs to ours.

In particular, third parties may attempt to develop competing programs or duplicate or copy aspects of our curriculum, online resource material, quality management and other proprietary content. Any such attempt, if successful, could adversely affect our business. Protecting these types of intellectual property rights can be difficult, particularly as it relates to the development by our competitors of competing courses and programs.

We may encounter disputes from time to time over rights and obligations concerning intellectual property, and we may not prevail in these disputes. Third parties may raise a claim against us alleging an infringement or violation of the intellectual property of that third-party.

If we are subject to intellectual property infringement claims, it could cause us to incur significant expenses and pay substantial damages.

Third parties may claim that we are infringing or violating their intellectual property rights. Any such claims could cause us to incur significant expenses and, if successfully asserted against us, could require that we pay substantial damages and prevent us from using our intellectual property that may be fundamental to our business. Even if we were to prevail, any litigation regarding the intellectual property could be costly and time-consuming and divert the attention of our management and key personnel from our business operations.

If we incur liability for the unauthorized duplication or distribution of class materials posted online during our class discussions, it may affect our future operating results and financial condition.

In some instances, our faculty members or our students may post various articles or other third-party content on class discussion boards. We may incur liability for the unauthorized duplication or distribution of this material posted online for class discussions. Third parties may raise claims against us for the unauthorized duplication of this material. Any such claims could subject us to costly litigation and impose a significant strain on our financial resources and management personnel regardless of whether the claims have merit. As a result we may be required to alter the content of our courses or pay monetary damages.

Because we are an almost exclusively online provider of education, we are substantially dependent on continued growth and acceptance of online education and, if the recognition by students and employers of the value of online education does not continue to grow, our ability to grow our business could be adversely impacted.

We believe that continued growth in online education will be largely dependent on additional students and employers recognizing the value of degrees and courses from online institutions. If students and employers are not convinced that online schools are an acceptable alternative to traditional schools or that an online education provides necessary value, or if growth in the market penetration of exclusively online education slows, growth in the industry and our business could be adversely affected. Because our business model is based on online education, if the acceptance of online education does not grow, our ability to continue to grow our business and our financial condition and results of operations could be materially adversely affected.

If our data or our users' content is hacked, including through privacy and data security breaches, our business could be damaged, and we could be subject to liability.

Our business is and we expect it will continue to be almost exclusively reliant upon the Internet. Although there are growing reports of cybersecurity incidents affecting larger companies, if our systems are hacked and our students' confidential information is misappropriated we could be subject to liability.

We may fail to detect the existence of a breach of user content and be unable to prevent unauthorized access to user and company content. The techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems change frequently and are often not recognized until launched against a target. They may originate from less regulated third world countries where lax local enforcement and poverty create opportunities for hacking. If our security measures are breached, or our students' content is otherwise accessed through unauthorized means, or if any such actions are believed to occur, Aspen University and USU may lose existing students and or fail to enroll new students.

Our business could be harmed by any significant disruption of service on our websites.

Because of the importance of the Internet to our business, in addition to cybersecurity we face the risk that our systems will fail to function in a robust manner. Our reputation, and ability to attract, retain, and serve our students are dependent upon the reliable performance of our websites, including our underlying technical infrastructure. Our technical infrastructure may not be adequately designed with sufficient reliability and redundancy to avoid performance delays or outages that could be harmful to our business. If our websites are unavailable when students and professors attempt to access them, or if they experience frequent slowdowns or disruptions, we may lose students and professors.

As Internet commerce develops, federal and state governments may draft and propose new laws to regulate Internet commerce, which may negatively affect our business.

The increasing popularity and use of the Internet and other online services have led and may lead to the adoption of new laws and regulatory practices in the U.S. and to new interpretations of existing laws and regulations. These new laws and interpretations may relate to issues such as online privacy, copyrights, trademarks and service marks, sales taxes, fair business practices and the requirement that online education institutions qualify to do business as foreign corporations or be licensed in one or more jurisdictions where they have no physical location or other presence. New laws, regulations or interpretations related to doing business over the Internet could increase our costs and materially and adversely affect our enrollments, revenues and results of operations.

If there is new tax treatment of companies engaged in Internet commerce, this may adversely affect the commercial use of our marketing services and our financial results.

Due to the growing budgetary problems facing state and local governments, it is possible that governments might attempt to tax our activities. New or revised tax regulations may subject us to additional sales, income and other taxes. We cannot predict the effect of current attempts to impose taxes on commerce over the Internet. New or revised taxes and, in particular, sales or use taxes, would likely increase the cost of doing business online which could have an adverse effect on our business and results of operations.

Risks Related to the Regulation of Our Industry

If we fail to comply with the extensive regulatory requirements for our business, we could face penalties and significant restrictions on our operations, including loss of access to Title IV Program funds.

We are subject to extensive regulation by (1) the federal government through DOE under the Higher Education Act, (2) state regulatory bodies and (3) accrediting agencies recognized by DOE, including the Distance Education Accrediting Commission (the DEAC), a national accrediting agency recognized by DOE, and WSCUC, a regional accrediting agency recognized by DOE. In addition, the U.S. Department of Defense and the U.S. Department of Veterans Affairs regulate our participation in the military's tuition assistance program and the VA's veterans' education benefits program, respectively. The laws, regulations, standards and policies of these agencies cover the vast majority of our operations, including our educational programs, facilities, instructional and administrative staff, administrative procedures, marketing, recruiting, financial operations and financial condition. These regulatory requirements can also affect our ability to add new or expand existing educational programs and to change our corporate structure and ownership.

Institutions of higher education that grant degrees, diplomas, or certificates must be authorized by an appropriate state education agency or agencies. In addition, in certain states, as a condition of continued authorization to grant degrees, a school must be accredited by an accrediting agency recognized by the U.S. Secretary of Education. Accreditation is a non-governmental process through which an institution submits to qualitative review by an organization of peer institutions, based on the standards of the accrediting agency and the stated aims and purposes of the institution. Accreditation is also required in order to participate in various federal programs, including tuition assistance programs of the United States Armed Forces and the federal programs of student financial assistance administered pursuant to Title IV of the Higher Education Act. The Higher Education Act and its implementing regulations require accrediting agencies recognized by DOE to review and monitor many aspects of an institution's operations and to take appropriate action when the institution fails to comply with the accrediting agency's standards.

Our operations are also subject to regulation due to our participation in Title IV Programs. Title IV Programs, which are administered by DOE, include loans made directly to students by DOE and several grant programs for students with economic need as determined in accordance with the Higher Education Act and DOE regulations. To participate in Title IV Programs, a school must receive and maintain authorization by the appropriate state education agencies, be accredited by an accrediting agency recognized by the U.S. Secretary of Education, and be certified as an eligible institution by DOE. Our growth strategy is partly dependent on being able to offer financial assistance through Title IV Programs as it may increase the number of potential students who may choose to enroll in our programs.

The laws, regulations, standards, and policies of DOE, state education agencies, and our accrediting agencies change frequently. Recent and impending changes in, or new interpretations of, applicable laws, regulations, standards, or policies, or our noncompliance with any applicable laws, regulations, standards, or policies, could have a material adverse effect on our accreditation, authorization to operate in various states, activities, receipt of funds under tuition assistance programs of the United States Armed Forces, our ability to participate in Title IV Programs, receipt of veterans education benefits funds, or costs of doing business. Findings of noncompliance with these laws, regulations, standards and policies also could result in our being required to pay monetary damages, or subjected to fines, penalties, injunctions, limitations on our operations, termination of our ability to grant degrees, revocation of our accreditation, restrictions on or loss of our access to Title IV Program funds or other censure that could have a material adverse effect on our business.

If we do not maintain authorization in Colorado and California, our operations would be curtailed, and we may not grant degrees.

Aspen is headquartered in Colorado and is authorized by the Colorado Commission on Higher Education to grant degrees, diplomas or certificates. USU is headquartered in California and is authorized by the California Bureau for Private Postsecondary Education to grant degrees, diplomas or certificates. If Aspen were to lose its authorization from the Colorado Commission on Higher Education, Aspen would be unable to provide educational services in Colorado and would lose its eligibility to participate in the Title IV Programs. If USU were to lose its authorization from the California Bureau for Private Postsecondary Education, it would be unable to provide educational services in

California and would lose its eligibility to participate in the Title IV Programs.

Our failure to comply with regulations of various states could have a material adverse effect on our enrollments, revenues, and results of operations.

Various states impose regulatory requirements on education institutions operating within their boundaries. Several states assert jurisdiction over online education institutions that have no physical location or other presence in the state but offer education services to students who reside in the state or advertise to or recruit prospective students in the state. State regulatory requirements for online education are inconsistent among states and not well developed in many jurisdictions. As such, these requirements change frequently and, in some instances, are not clear or are left to the discretion of state regulators.

State laws typically establish standards for instruction, qualifications of faculty, administrative procedures, marketing, recruiting, financial operations, and other operational matters. To the extent that we have obtained, or obtain in the future, state authorizations or licensure, changes in state laws and regulations and the interpretation of those laws and regulations by the applicable regulators may limit our ability to offer educational programs and award degrees. Some states may also prescribe financial regulations that are different from those of DOE. If we fail to comply with state licensing or authorization requirements, we may be subject to the loss of state licensure or authorization. If we fail to comply with state requirements to obtain licensure or authorization, we may be the subject of injunctive actions or other penalties or fines. Loss of licensure or authorization or the failure to obtain required licensures or authorizations could prohibit us from recruiting or enrolling students in particular states, reduce significantly our enrollments and revenues and have a material adverse effect on our results of operations.

In addition, DOE's new distance education rule is scheduled to go into effect on July 1, 2018. The new rule requires us to (i) obtain authorization to offer our programs from each state where authorization is required or through participation in a reciprocity agreement, and (ii) provide specific consumer disclosures regarding our educational programs. If we fail to obtain required state authorization to provide postsecondary distance education in a specific state before the effective date for the new distance education rule, we could lose our ability to award Title IV aid to students within that state or be required to refund Title IV funds related to jurisdictions in which we failed to have state authorization. We must be able to document state approval for distance education if requested by DOE. In addition, the consumer disclosures required pursuant to the distance education rule are detailed and include disclosures regarding licensure and certification requirements, state authorization, student complaints, adverse actions by state and accreditation agencies, and refund policies. These disclosure requirements will require a considerable amount of data gathering needed to support such disclosures and will require our institutions to closely track where students enrolled in online programs reside during the course of their studies. These various disclosure requirements could subject us to financial penalties from DOE and heighten the risk of potential federal and private misrepresentation claims.

Moreover, in the event we are found not to be in compliance with a state's new or existing requirements for offering distance education within that state, the state could seek to restrict one or more of our business activities within its boundaries, we may not be able to recruit students from that state, and we may have to cease providing service to students in that state. In addition, a state may impose penalties on an institution for failure to comply with state requirements related to an institution's activities in a state, including the delivery of distance education to persons in that state.

If DOE determines that borrowers of federal student loans who attended our institution have a defense to repayment of their federal student loans based on a state law claim against our institution, our institution's repayment liability to DOE could have a material adverse effect on our enrollments, revenues and results of operations.

DOE's current regulations provide borrowers of loans under the William D. Ford Federal Direct Loan (FDL) program a defense against an attempt to collect such loans based on any act or omission of the institution that would give rise to a cause of action under applicable state law. In the event the borrower's defense against repayment is successful, DOE has the authority to discharge all or part of the student's obligation to repay the loan, and may require the institution to repay the amount of the loan to which the defense applies.

In addition to the current regulation, the new Borrower Defense to Repayment (BDTR) Rule was published November 1, 2016, with an anticipated July 1, 2017 effective date. In mid-June of 2017, DOE announced an indefinite delay in the implementation of the rule due to a lawsuit brought by the California Association for Private Postsecondary Schools (CAPPS) challenging elements of the rule. In a second notice on the same day, DOE announced that, in addition to the legal challenge, DOE's own internal analysis indicated that the rule needed further work, and a new negotiated rulemaking panel would be convened to draft a new version.

In October of 2017, DOE issued two new notices, the first rescinding DOE's earlier indefinite delay of the effective date for BDTR, replacing it with a new effective date of July 1, 2018 and the second extending the delay to July 1, 2019. The reason articulated by DOE for the first delay was to align the new effective date with DOE's master calendar; the justification for the second delay is to allow the BDTR negotiated rulemaking process to be completed before requiring schools to comply. The now-postponed rule is also the subject of multiple lawsuits including the CAPPS suit noted above and another from a coalition of state attorneys general who argue that DOE does not have the authority to delay the effective date of an existing regulation. It also argues that by not implementing the rule, DOE is amending the regulation without required rulemaking, notice and comment periods in violation of the Administrative Procedures Act.

DOE has indicated in the notices that it will continue to process borrower claims under the current regulation until replaced by a new rule.

The postponed regulations, which could form the basis for any new proposed regulations, open new avenues for student borrowers to assert a defense to repaying their loans, allow DOE to seek reimbursement for such claims from the affected institutions, and expand DOE's financial responsibility rules to require many more schools to post letters of credit with DOE. The postponed regulations include, among other things:

Bases for borrowers to file claims: The postponed regulations set out three grounds for a borrower defense to repayment claim, including a favorable decision for the student in a state or federal court case involving the loan; a breach of contract by the institution; or a substantial misrepresentation by the institution about the nature of its educational program, the nature of its financial charges, or the employability of its graduates. Claims based on a court judgment or claims to assert a defense against loan payments that are still due can be made any time (with no statute of limitations), while other claims (such as to recoup loan funds already repaid to DOE) must be made within six years.

Claim resolution process: The postponed regulations call for DOE to set up a fact-finding process to resolve claims. The contemplated structure includes providing the institution with notice and an opportunity to submit evidence; however, the exact procedures, including the opportunity to contest particular factual assertions or present in-person testimony, are not defined. In addition, DOE has also given itself authority to process claims on a group basis, and to take the initiative to create groups and include borrowers who have not filed a claim. Borrowers who file successful claims may have their loans forgiven in whole or in part, with DOE reserving the right to calculate the amount of forgiveness in various ways.

Recovering funds: For debts relieved for individual borrowers, the postponed regulations give DOE the authority to initiate a proceeding to seek repayment from the institution for any loan amounts forgiven. The details concerning how such a proceeding would be conducted are not defined in the postponed regulations. For group relief, there is no separate proceeding. If DOE determines a group discharge is warranted, it will automatically assign liability to the institution.

Early warning letter of credit triggers: DOE proposed in the postponed regulations to amend its existing financial responsibility regulations to describe at least 10 new early warning triggers that would allow DOE to require an institution to post a letter of credit with DOE to demonstrate its financial stability and assure DOE of the institution's ability to pay borrower claims if needed. Each trigger would authorize DOE to require an LOC in the amount of at

least 10% of the Title IV funding utilized by the institution for the most recently completed fiscal year. The triggers are intended to be cumulative, and therefore could require an institution to post a very significant letter of credit, up to or even exceeding its Title IV funding level. The postponed regulations would also put an institution on provisional certification immediately upon a trigger being met. In addition, if the institution does not provide the required letter of credit within 30 days of DOE's request, DOE may offset the institution's future Title IV funds for up to nine months until DOE is able to capture the amount of the letter of credit. The proposed triggering events include, among others:

a.

Lawsuits and other Actions If the institution is subject to a liability based on a lawsuit or an audit, investigation or similar action by a state or federal oversight agency, including any debt or liability incurred or asserted at any time during the three most recently completed award years, with a claim or liability exceeding the lesser of 10% of the institution's current assets or \$750,000.

b.

Successful Borrower Defense to Repayment Claims If the institution is required to pay more than 10% of its current assets, or \$750,000, whichever is less, to satisfy successful borrower defense claims.

c.

Accrediting Agency Actions If the institution is required to submit a teach-out plan or is placed on probation or issued a show-cause in the three prior award years, regardless of the cause.

d.

90/10 Rule Failure to meet the 90/10 Rule revenue ratio for a single year.

e.

Gainful Employment Rates If more than 50% of the institution's Title IV-recipient students in GE programs are enrolled in GE programs with failing or zone rates (but prior to any loss of eligibility under the multi-year triggers in the GE Rule).

f.

Cohort Default Rates Two consecutive years with CDRs of 30% or higher.

Required warnings to students of new repayment rate: One section of the postponed regulations applies only to for-profit institutions, requiring such institutions to disclose a new form of loan repayment rate in a variety of public materials, to serve as a warning to current and potential students, when the rate is too low. This repayment rate would be calculated based on the payment performance of an institution's students approximately five years after its students graduate or withdraw from the school.

Forbidding mandatory arbitration clauses and class action waivers: The postponed regulations would prohibit an institution from incorporating a class action waiver provision, or a mandatory arbitration clause, in any agreement with students. If an institution's contracts currently contain a pre-dispute arbitration provision or a class waiver, the institution will be required to amend the agreement or provide a specific notice to students, using language provided by DOE that explains that those provisions have been changed.

If DOE determines that borrowers of FDL program loans who attended Aspen or USU have a defense to repayment of their FDL program loans based on our acts or omissions, the repayment liability to DOE could have a material adverse effect on our financial condition, results of operations and cash flows. Cumulative letters of credit, at 10% of the amount of Title IV Program funds received by the institution during the most recently completed award year, could have a material adverse effect on our financial condition, results of operations and cash flows. Additionally, if DOE determines that our loan repayment rates are too low, having to issue warnings to current and prospective students describing the low repayment rate could have a material adverse effect on our enrollments, revenues, financial condition, results of operations and cash flows.

If we fail to maintain our institutional accreditation, we would lose our ability to participate in the tuition assistance programs of the U.S. Armed Forces and also to participate in Title IV Programs.

Aspen University is accredited by the DEAC, which is a national accrediting agency and USU is accredited by the Senior College and University Commission of the Western Association of Schools and Colleges (the WSCUC), which is a regional accrediting agency. Both DEAC and WSCUC are recognized by the U.S. Secretary of Education for Title IV purposes. Accreditation by an accrediting agency that is recognized by the Secretary of Education is required for an institution to become and remain eligible to participate in Title IV Programs as well as in the tuition assistance programs of the United States Armed Forces. DEAC or WSCUC may impose restrictions on our accreditation or may terminate our accreditation. To remain accredited we must continuously meet certain criteria and standards relating to, among other things, performance, governance, institutional integrity, educational quality, faculty, administrative capability, resources and financial stability. Failure to meet any of these criteria or standards could result in the loss of accreditation at the discretion of the accrediting agency. The loss of accreditation would, among other things, render our students and us ineligible to participate in the tuition assistance programs of the U.S. Armed Forces or Title IV

Programs and have a material adverse effect on our enrollments, revenues and results of operations. In addition, although the loss of accreditation by one school would not necessarily result in the loss of accreditation by the other school, the accreditor may consider the loss of accreditation by one school as a factor in considering the on-going qualification for accreditation of the other school.

Because we participate in Title IV Programs, our failure to comply with the complex regulations associated with Title IV Programs would have a significant adverse effect on our operations and prospects for growth.

Aspen and USU participate in Title IV Programs. Compliance with the requirements of the Higher Education Act and Title IV Programs is highly complex and imposes significant additional regulatory requirements on our operations, which require additional staff, contractual arrangements, systems and regulatory costs. We have a limited demonstrated history of compliance with these additional regulatory requirements. If we fail to comply with any of these additional regulatory requirements, DOE could, among other things, impose monetary penalties, place limitations on our operations, and/or condition or terminate the eligibility of one or both of our schools to receive Title IV Program funds, which would limit our potential for growth and materiality and adversely affect our enrollment, revenues and results of operations. In addition, the failure to comply with the Title IV Program requirements by one institution could increase DOE scrutiny of the other institution and could impact the other institution's participation in the Title IV Programs.

Because USU is only temporarily provisionally certified by DOE, we must reestablish our eligibility and certification to participate in the Title IV Programs, and there are no assurances that DOE will recertify us to participate in the Title IV Programs.

An institution generally must seek recertification from DOE at least every six years and possibly more frequently depending on various factors. In certain circumstances, DOE provisionally certifies an institution to participate in Title IV Programs, such as when it is an initial participant in Title IV Programs or has undergone a change in ownership and control. On August 22, 2017, DOE recertified Aspen University to participate in the Title IV Programs, and set a subsequent program participation agreement reapplication date of March 31, 2021.

USU currently is operating under a temporary provisional certification to participate in the Title IV Programs due to the change of ownership which occurred in December of 2017. The temporary provisional certification allows the school to continue to receive Title IV funding on a month-to-month basis as it did prior to the change of ownership while DOA reviews the change of ownership. Even if DOE certifies USU following the change of ownership, such certification will be provisional as is the case for all Title IV institutions undergoing a change of ownership. Under provisional certification, an institution must obtain prior DOE approval to add an educational program or make other significant changes and may be subject to closer scrutiny by DOE. In addition, if DOE determines that a provisionally certified institution is unable to meet its responsibilities to comply with the Title IV requirements, DOE may revoke the institution's certification to participate in the Title IV Programs without advance notice or opportunity to challenge the action.

Subsequent to a compliance audit covering the period from January 1, 2015 through December 31, 2015, USU recognized that it had not fully complied with all requirements for calculating and making timely returns of Title IV funds (R2T4). USU was required to post an irrevocable letter of credit in the amount of 25% of the 2015 Title IV returns. An irrevocable letter of credit was established in favor of the Secretary of Education in the amount of \$71,634 as a result of this finding. In the 2016 compliance audit, USU had a material finding related to the same issue and was required to maintain the irrevocable letter of credit in the same amount. USU will be required to maintain the letter of credit until it has experienced two consecutive audit periods without a repeat finding. As a result of the change of ownership, the previous letter of credit established by USU has been replaced by one provided by AGI. The amount remains unchanged.

If DOE does not ultimately approve USU's certification to participate in Title IV Programs, USU students would no longer be able to receive Title IV Program funds, which would have a material adverse effect on our enrollments, revenues and results of operations. In addition, regulatory restraints related to the addition of new programs or substantive change of existing programs or imposition of a letter of credit could impair our ability to attract and retain students and could negatively affect our financial results.

Because DOE may conduct compliance reviews of us, we may be subject to adverse actions and future litigation which could affect our ability to offer Title IV student loans.

Because we operate in a highly regulated industry, we are subject to compliance reviews and claims of non-compliance and lawsuits by government agencies, regulatory agencies, and third parties, including claims brought by third parties on behalf of the federal government. If the results of compliance reviews or other proceedings are unfavorable to us, or if we are unable to defend successfully against lawsuits or claims, we may be required to pay monetary damages or be subject to fines, limitations, loss of Title IV funding, injunctions or other penalties, including the requirement to make refunds. Even if we adequately address issues raised by any compliance review or successfully defend a lawsuit or claim, we may have to divert significant financial and management resources from our ongoing business operations to address issues raised by those reviews or to defend against those lawsuits or claims. Claims and lawsuits brought against us may damage our reputation, even if such claims and lawsuits are

without merit.

If the percentage of our revenues derived from Title IV Programs is too high, we could lose our ability to participate in Title IV Programs.

Under the Higher Education Act, an institution is subject to loss of eligibility to participate in the Title IV Programs if, on a cash accounting basis, it derives more than 90% of its fiscal year revenue from Title IV Program funds, for two consecutive fiscal years. This rule is known as the 90/10 rule. An institution whose rate exceeds 90% for any single fiscal year is placed on provisional certification for at least two fiscal years and may be subject to other conditions specified by the U.S. Secretary of Education. We must monitor compliance with the 90/10 rule by both Aspen and USU. Failure to comply with the 90/10 rule for one fiscal year may result in restrictions on the amounts of Title IV funds that may be distributed to students; restrictions on expansion; requirements related to letters of credit or any other restrictions imposed by DOE. Additionally, if we fail to comply with the 90/10 rule for two consecutive years, we will be ineligible to participate in Title IV Programs and any disbursements of Title IV Program funds made while ineligible must be repaid to DOE.

Further, due to scrutiny of the sector, legislative proposals have been introduced in Congress that would revise the requirements of the 90/10 rule to be stricter, including proposals that would reduce the 90% maximum under the rule to 85% and/or prohibit tuition derived from military benefit programs to be considered when determining whether the institution has adequate non-Title IV revenue to meet the requirements of the rule.

If our competitors are subject to further regulatory claims and adverse publicity, it may affect our industry and reduce our future enrollment.

We are one of a number of for-profit institutions serving the postsecondary education market. In recent years, regulatory investigations and civil litigation have been commenced against several companies that own for-profit educational institutions. These investigations and lawsuits have alleged, among other things, deceptive trade practices and non-compliance with DOE regulations. These allegations have attracted adverse media coverage and have been the subject of federal and state legislative hearings. Although the media, regulatory and legislative focus has been primarily on the allegations made against specific companies, broader allegations against the overall for-profit school sector may negatively affect public perceptions of other for-profit educational institutions, including Aspen University and USU. In addition, in recent years, reports on student lending practices of various lending institutions and schools, including for-profit schools, and investigations by a number of state attorneys general, Congress and governmental agencies have led to adverse media coverage of postsecondary education. For example a large competitor, Corinthian Colleges, sold or shut down its schools due to substantial regulatory investigations and DOE actions. Other significant school groups have likewise been closed in light of significant DOE actions. Adverse media coverage regarding other companies in the for-profit school sector or regarding Aspen or USU directly could damage our reputation, co