

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
(Miami Division)

**CASE NO. 09-CV-21720-PAS**

UNITED STATES OF AMERICA, ex rel.,  
VICTORIA G. GATSIPOULOS, Relator,  
and DOLORES A. HOWLAND, Relator,

Plaintiffs/Relators,

v.

KAPLAN CAREER INSTITUTE, ICM  
CAMPUS, formerly known as ICM School  
of Business & Medical Careers, and  
KAPLAN HIGHER EDUCATION  
CORPORATION,

Defendants.

**JURY TRIAL DEMANDED**

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**SECOND AMENDED COMPLAINT**

Plaintiffs/Relators, Victoria G. Gatsiopoulos and Dolores A. Howland, by undersigned counsel, file this Second Amended Complaint and in support allege the following:

**I. Plaintiffs/Relators**

1. *Qui Tam* Plaintiff/Relator Victoria G. Gatsiopoulos is a citizen of the United States of America who resides at 2238 Candace Street, Pittsburgh, PA 15216. Gatsiopoulos worked for Defendant ICM from November 2000 until Defendant fired her on December 4, 2007. The last positions she held were Senior Career Advisor and Instructor. Gatsiopoulos brings Counts I and II of this action on behalf of the United States of America. Gatsiopoulos brings Count III on behalf of herself.

2. *Qui Tam* Plaintiff/Relator Dolores A. Howland (now Dolores A. Justice) is a

citizen of the United States of America who resides at 253 Marion Street, Munhall, PA 15120.

Howland worked for Defendant ICM from approximately October, 2000, to July, 2006 as a full-time day Instructor and a part-time evening Instructor and a Student Advisor. Howland brings Counts I and II this action on behalf of the United States of America.

3. The United States of America is named as Plaintiff in this action because Federal Funds of the United States of America were/are awarded to Defendant, pursuant to Title IV of the Higher Education Act (“HEA”) of 1965, as amended 20 U.S.C. §§ 1070 *eq seq.* and 42 U.S.C. §§ 2751 *eq seq.*, as a result of the false claims alleged in this complaint.

## **II. Defendants**

4. Defendant, Kaplan Career Institute, ICM Campus, formerly known as ICM School of Business & Medical Careers (“ICM”), is located at 10 Wood Street, Pittsburgh, Pennsylvania 15222. Defendant is a wholly owned subsidiary of Kaplan Higher Education Corporation (“Kaplan”).

5. Defendant ICM is a proprietary institute of higher education, accredited by the Accrediting Council for Independent Colleges and Schools (“ACICS”). Defendant is a recipient of HEA federal student financial aid funds from the United States Department of Education (“DOE”).

6. Defendant, Kaplan Higher Education Corporation (“Kaplan”), is located at 6301 Kaplan University Avenue, Fort Lauderdale, FL 33309. Defendant Kaplan is a division of Kaplan, Inc., which is a wholly-owned subsidiary of the Washington Post Company.

7. Defendant Kaplan owns more than 70 proprietary schools, including, but not limited to, Defendant ICM.

8. Managerial employees, Financial Advisors, Admissions Representatives, Administrative Assistants, Career Service Employees, Supervisors, and Instructors of Defendants were/are acting within the course and scope of their employment with Defendants and with Defendants= consent unless otherwise indicated.

## **II. Jurisdiction and Venue**

9. The jurisdiction of this court is invoked pursuant to the False Claims Act (“FCA”), 31 U.S.C. §§ 3730(b)(1), 3730(h) and 28 U.S.C. § 1331.

10. This action seeks remedies on behalf of the United States for violations of the FCA, 31 U.S.C. §§ 3729, *et seq.*, by Defendants, specifically Defendants’ wrongful act of fraudulently obtaining funds from the United States DOE in violation of the HEA.

11. This action also seeks remedies on behalf of Relator/Plaintiff Gatisopoulos pursuant to 31 U.S.C. § 3730(h).

12. Relators have satisfied all procedural and administrative requirements as required under the False Claims Act, 31 U.S.C. § 3730(b)(2), because when Relators filed their original Complaint, they simultaneously provided to the United States Attorney for the Western District of Pennsylvania a disclosure statement of all material evidence and information related in this Complaint. This disclosure statement supports the existence of a Submission of a knowingly false or fraudulent claim for payment or approval@under the False Claims Act, 31 U.S.C. § 3729.

13. This action was originally filed under seal in the United States District Court for the Western District of Pennsylvania on November 2, 2006, at Civil Action No. 06-1452. On March 12, 2008, Relators filed under seal an Amended Civil Complaint to include a retaliation

claim by Relator Gatsiopoulos. On September 2, 2008, the Court unsealed the action.

14. On June 16, 2009, over the objection of Relators and Defendants, the Judicial Panel on Multidistrict Litigation transferred this action to the United States District Court for the Southern District of Florida. Notwithstanding the Panel's Order, Relators continue to believe this Court is an improper and inconvenient venue, and that transfer was improper under 28 U.S.C. § 1407.

#### **IV. Background**

15. The United States Government awards billions of dollars each year to help students obtain education at colleges and vocational schools. Students do not directly receive the Federal Funds; rather, the educational institution requests funds from the DOE or a third party intermediary lender. The DOE or third party intermediary lender then wires the funds directly into the institution's accounts. The institution then credits its students for tuition.

16. Students are responsible for repaying the United States Government once they graduate or stop attending the institution. Students disqualified from the institution still must repay the federal loans. Oftentimes, students who are unable to complete their education are forced into dire economic situations.

#### **V. Introduction**

17. This is an action pursuant to the False Claims Act, 31 U.S.C. §§ 3729, *et seq.* to recover damages and civil penalties on behalf of the United States arising out of false claims approved and presented by Defendants to obtain Federal Funds from the United States DOE in violation of the HEA, from at least 2000 continually through the present.

18. Since at least 2000, though Relators suspect Defendants' illegal behavior began

much earlier, Defendants represented to the DOE that they were in compliance with HEA.

19. Defendants have, and continue to have, actual knowledge they are not adhering to the HEA, that their representations of adherence are false, and that they are submitting false and/or fraudulent representations of compliance.

## **VI. Summary of Defendants' Fraudulent Conduct**

20. Defendants have requested, and continue to request, HEA funds for students through several programs, including, but not limited to, the Federal Pell Grant Program ("Pell"); the Federal Supplemental Educational Opportunity Grant Program ("FSEOG") the Federal Family Education Loan ("FFEL") Program, including but not limited to subsidized and unsubsidized Stafford Loans; and the William D. Ford Federal Direct Loan ("Direct Loan") Program.

21. For Defendants to be eligible for these Federal Funds, federal statutes and regulations mandate Defendants certify to the United States Government that they will comply with the HEA.

22. Accordingly, Defendants are required to execute a Program Participant Agreement ("PPA"), under which they must agree to and adhere to *inter alia* the following provisions:

- a. "[The institution] *will not* provide any commission, bonus, or other incentive program based directly or indirectly upon success in securing enrollments or financial aid to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the awarding of title IV, HEA program funds..." HEA § 487(a)(20); 20 U.S.C. § 1094(a)(20); 34 C.F.R. § 668.14(b)(22)(i).
- b. In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, it will make available to

prospective students, at or before the time that those students apply for enrollment “(i)[t]he most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements...” HEA § 487(a)(8)(A); 20 U.S.C. § 1094(a)(8)(A); 34 C.F.R. § 668.14(b)(10)(i).

- c. In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, it will make available to prospective students, at or before the time that those students apply for enrollment “(ii)[r]elevant State licensing requirements of the State in which the institution is located for any job for which an educational program offered by the institution is designed to prepare those prospective students” HEA § 487 (a)(8)(B); 20 U.S.C. § 1094(a)(8)(B); 34 C.F.R. § 668.14(10)(ii).

23. Defendants have fraudulently violated the requirements of the PPA and the HEA in the manners set forth below.

**A. Incentive Compensation**

24. Defendants, in knowing violation of the PPA requirements of the HEA, compensate Admission Representatives based solely and directly on their enrollment success.

25. For example, Admission Representatives who enroll more students than the Aquota@set by management are rewarded with APresident Club/Admissions Council@membership by Defendant Kaplan.

26. Defendants award its employees membership to the President Club/Admissions Council based solely on the number of students they enroll.

27. President Club members have been, and continue to be, rewarded with annual trips. For example, in 2005, they were rewarded with a trip to Puerto Rico, where, among other things, they received spa treatments and historic tours of San Juan.

28. The purpose and effect of these trips is not primarily to educate admissions

personnel. Rather, Defendants provide their admissions representatives with annual trips of a non-educational nature to reward them for their high enrollment “numbers.”

29. Defendant Kaplan engages in incentive-based compensation, including awarding of Presidents Club/Admissions counsel memberships, at many or all of its locations, including the ICM campus.

30. By compensating their employees based directly and solely on the number of students they enroll, Defendants knowingly violate the HEA’s incentive compensation ban. *See* 20 U.S.C. § 1094(a)(20); 34 C.F.R. § 668.14(b)(22)(i). Further, Defendants intend to violate the ban on incentive compensation when signing annual PPAs, and know they are ineligible for receipt of federal funds when signing annual PPAs.

**B. Advertisement of Job Placement Rates**

31. Second, Defendants advertise job placement rates as a means of attracting students to enroll.

32. For example, Defendant Kaplan publishes a “Student Consumer Information” booklet for its ICM campus. This publication is available on the Internet. Included in the 2010-2011 version of the publication is a table entitled, “Job Placement Rates for Kaplan Career Institute: ICM Campus, Pittsburgh, PA.” In that table, Defendants list the job placement rate for students in each of its programs.

33. In the publication, Defendants boast an overall job placement rate of between 83% and 92%. However, as explained below, these statistics are false and misleading.

34. Moreover, during Relators’ entire employment, whenever a prospective student visited the ICM campus to inquire about the school, admissions representatives gave the students

a paper entitled “Student Disclosure Placement Rates.” This document sets forth the job placement rates for the program(s) in which the student is interested. However, it bases the job placement statistic on the number of students who actually graduated, as opposed to the number of students who enrolled.

35. Defendant ICM knowingly manipulates its job placement statistics by misrepresenting and inflating the actual percentage of graduated students who secured employment in their designated/related academic field.

36. For example, in an ACICS job placement report for the period between 7/1/2004 and 6/30/2006, Defendant ICM categorized a graduated student who secured employment as a Sales Associate at Wal-Mart as working in the related field of Accounting Management; a graduated student who worked as a Telemarketer for Dial America as working in the related field of Business Administrative Fashion Merchandising; and a graduated student who worked as a McDonald=s Crew Leader as working in the related field of Criminal Justice.

37. Defendants inflate their job placement statistics by including graduated students who only worked at their post-graduation jobs for an extremely short period of time as “job placements.” For example, Defendants counted the following students as placed in their field or a related field in a report to ACICS for the period of 7/1/2005 to 6/30/2006: (1) a tax preparer employed from January 1, 2006 to February 6, 2006; (2) a social rehabilitation aide who worked from August 21, 2006 to September 15, 2006; (3) a sales employee who worked from April 14, 2006 to May 1, 2006; (4) a security/investigative agent who worked from March 13 to 14, 2006; (5) a medical assistant who worked a one-day assignment on July 14, 2006; (6) a receptionist who worked from May 5 through 20, 2006; and (7) an insurance representative who worked



from August 7 through 28, 2006.

38. Defendants also inflate their job placement statistics by including graduated students who continued to work at the job they had *even* before they attended ICM as “job placements.” For example, in the same ACICS report identified above, Defendants counted the following students as placed in their field or a related field: (1) a residential program worker who graduated on August 16, 2005, but had held the same job since May 15, 2001; and (2) a parking enforcement officer who graduated on May 3, 2006, but held the same job since August 14, 2000.

39. Defendants further inflate their job placement statistics by requiring students to sign fraudulent waivers attesting that they are continuing their education. Defendants count a student as “placed” in a job if the student is attending another post-secondary institution following graduation. However, Defendants required their employees, including Relator Gatsiopoulous, to have students sign waivers even when they had no plans of continuing their education. Defendants then reported that those students were placed in jobs.

40. Defendants’ Admission Representatives engage in aggressive and fraudulent job placement advertisement, including baiting prospective students with false promises of how their lives will magically change if only they would attend ICM. For example, a prospective student, in financial dire straits was promised, in writing, by an Admission Representative that in five years she would have a job in a hospital, a big house in Florida, enough money to go to Disney World with her family, and a new Lexus. Thereby, Defendants obtain enrollment through fraudulent means.

41. By providing false job placement rates to students, and failing to make available

information to substantiate the truthfulness of its advertisements, Defendants knowingly violate the HEA's requirement of making available the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements..." See 20 U.S.C. § 1094(a)(8)(A); 34 C.F.R. § 668.14(b)(10)(i). Further, Defendants intend to violate this requirement when signing annual PPAs, and know they are ineligible for receipt of federal funds when signing annual PPAs.

### **C. Licensing Requirements**

42. As set forth above in Paragraphs 31 through 34 above, Defendants advertise job placement as a means of attracting students to enroll in their institution, both on their website and given to students in person.

43. In addition to advertising numerical job placement rates, Defendants also advertise that students will be able to obtain specific jobs.

44. For example, in a television commercial for ICM that aired frequently during Relators' employment, Defendants represented that ICM students could become police officers or crime lab technicians. However, Defendants failed to mention that a degree from ICM alone would not allow a student to become a police officer or crime lab technician.

45. Despite advertising job placement rates, Defendants fail to make available the licensing requirements of the state in which they are located for any job for which they prepare their prospective students.

46. Under the subheading, "Certification, State Board and National Board Exams," Defendants= 2006-2007 Catalog states: "[T]he requirements of certification, state board, national

board licensing exams is the individual student's requirement."

47. Admission Representatives at ICM have misled prospective Criminal Justice students; they told the prospective students that with a criminal background the only job they cannot pursue is that of a Police Officer. However, this is patently false.

48. Furthermore, until approximately 2004, Defendant ICM required students to fill out forms to conduct background checks. Defendant ICM then failed to conduct all of these background checks. Thus, when some students with background checks were cleared to matriculate in Defendant's Criminal Justice/Criminal Justice Cyber crime, they were fraudulently led to believe that their records were clear and that they would be able to secure employment in a Criminal Justice/Criminal Justice Cybercrime position upon graduation.

49. By failing to provide licensing requirements to students despite advertising job placement rates, Defendants knowingly violate the HEA's requirement of making "available to prospective students, at or before the time that those students apply for enrollment ... [r]elevant State licensing requirements of the State in which the institution is located for any job for which an educational program offered by the institution is designed to prepare those prospective students." *See* 20 U.S.C. § 1094(a)(8)(B); 34 C.F.R. § 668.14(10)(ii). Further, Defendants intend to violate this requirement when signing annual PPAs, and know they are ineligible for receipt of federal funds when signing annual PPAs.

#### **D. 70 Percent Rule: Completion**

50. Under the HEA, an institution is "eligible" for federal financial assistance with respect to its Direct Loan and FFEL programs only if it has a "substantiated completion [graduation] rate of at least 70 percent." 20 U.S.C. § 1088 (b)(2)(A)(i); 34 C.F.R. ' §

668.8(d)(3)(v); 668.8(e)(1)(i).

51. As explained in Paragraph 20 above, Defendants seek federal financial assistance from both the Direct Loan and FFEL programs.

52. Students in all academic programs at the ICM campus, including Allied Health, Business, Criminal Justice, Design, and Information Technology, and Electrical Technician, receive federal financial assistance from both the Direct Loan and FFEL programs.

53. However, Defendants have an actual completion rate of less than 70 percent, and also fraudulently inflate their completion rate by changing students' grades, as further explained below.

#### **1. Actual completion rate**

54. In Defendants' 2010-2011 Student Consumer Information Booklet identified above, Defendants identify an overall graduation rate of at least 56% for the period of 9/1/06 to 8/31/07 (101 graduates of 179 students). This graduation rate alone violates the "70 percent" rule.

55. Defendants' publication further specifies that 71% of its graduates received a Pell Grant, 21% received a subsidized loan and no grant, and 8% did not receive a subsidized loan or grant. However, it does not specify whether that 8% received unsubsidized federal loans. Moreover, it does not indicate whether any percentage of the Pell Grant recipients also received unsubsidized or subsidized loans.

56. Although this information is particularly within the knowledge and control of Defendants, Relators believe Defendants' actual graduation rates similarly fell below 70% in all years since at least 2000, as it did from 2006 to 2007.

## **2. Manipulation of Completion Rate**

57. Instructors, including Relators Gatsiopoulos and Howland, have been and are encouraged to change students' grades to falsely elevate students' cumulative grade point average to Defendants' requisite 2.00 cumulative grade point average, graduation minimum.

58. For example, a student participated in ICM's graduation ceremony on September 6, 2006, but had a 1.95 grade point average on September 13, 2006. However, on September 14, 2006, the student's cumulative grade point average transformed to a 2.00. Defendants achieved this manipulation by changing her Sociology grade from a D+ to a C and her Oral Communications grade from a C- to a C+.

59. Moreover, in the Spring of 2005, Relator Gatsiopoulos gave a former student a B+ in her Business Correspondence & Career Planning Class, but Defendants changed the B+ to an A without Gatsiopoulos' knowledge or approval.

60. Instructors, including Relators Gatsiopoulos and Howland, have been encouraged to change students' incompletes, a mark which precludes graduation under Defendants' policies so a student can graduate under fraudulent circumstances.

61. Defendants also permit students to declare they have completed externship hours even when they have failed to do so.

62. For example, Defendants allowed a student to graduate in January 2004, even though he still had not completed his externship hours by February 2005.

63. Instructors, including Relators Gatsiopoulos and Howland, are encouraged to mark students present even when not physically present in the actual classroom to fraudulently comply with Defendants' policy that a student will be dismissed if he/she misses 21 consecutive

days of class.

64. Defendants' 2006-2007 catalog under the subheading "Attendance/Tardiness Policy" Defendants state: "The specific requirements for attendance are: 1. Students who are absent from School twenty-one (21) consecutive calendar days...will be dismissed from the program." Defendant ICM calculates this date based on a student's Last Date Attending (LDA) classes. However, Defendant ICM has encouraged instructors, including Relators Gatsiopoulos and Howland, to disregard a student's actual LDA. Rather instructors are to do what Defendant ICM "tells them" with regard to attendance, i.e. mark students present when they have not been there for weeks, and/or rely on a LDA other than one listed in an instructor's grade book.

65. Defendants' 2006-2007 catalog under the subheading "Make-Up Standards" states: "Hours of make-up work will not be accepted as hours of class attendance..." However, Defendant ICM has encouraged instructors to allow students to make up copious amounts of work.

66. Defendants' 2006-2007 catalog under the subheading "Attendance/Tardiness Policy" states: "Students who are not in attendance for at least 50% of any scheduled class will be considered absent for that class. However, Defendant ICM has encouraged instructors to mark students present even when they have not been in attendance for at least 50% of the instructors' class.

67. Defendants' employees, including Relators Gatsiopoulos and Howland, are required to track down students and to convince students to return. Defendants refer to this process as "Retention." Relators have called chronically missing students, tracked down students even when their status had been determined as homeless, called missing students=

family members, and persistently called students even when they had unequivocally stated they were no longer interested in the program.

68. By falsely representing that they have a completion rate of at least 70 percent, and by engaging in fraudulent means to achieve a seemingly higher completion rate, Defendants knowingly represent themselves as “eligible” for participation in Direct Loan and FFEL programs in violation of 20 U.S.C. § 1088 (b)(2)(A)(i); 34 C.F.R. § 668.8(d)(3)(v); 668.8(e)(1)(i). Further, Defendants know they are not eligible for federal financial assistance under Direct Loan and FFEL programs when they sign annual PPAs.

**E. 70 Percent Rule: Job Placement**

69. An institution is “eligible” for federal funding with respect to its Direct Loan and FFEL programs only if it has “a substantiated placement rate of at least 70 percent...” Furthermore, “an institution shall document that each student described...obtained gainful employment in the recognized occupation for which he/she was trained or in a related comparable recognized occupation.” 20 U.S.C. § 1088(b)(2)(A)(ii); 34 C.F.R. § 668.8(e)(ii), 668.8(g)(1)(ii).

70. Although, on paper, Defendants seemingly have a job placement rate of over 70 percent, Defendants have achieved this goal in a fraudulent manner.

71. As set forth above in Paragraphs 35 through 39 above, Defendants’ placement statistics are not based on truthful representations. Defendants misrepresent the actual percentage of graduated students who secured employment in their designated/related academic fields.

72. By falsely representing that they have a job placement rate of at least 70 percent,

Defendants knowingly represent themselves as “eligible” for participation in Direct Loan and FFEL programs in violation of 20 U.S.C. § 1088 (b)(2)(A)(i); 34 C.F.R. § 668.8(d)(3)(v); 668.8(e)(1)(i). Further, Defendants know they are not eligible for federal financial assistance under Direct Loan and FFEL programs when they sign annual PPAs.

**VII. Summary of Defendants Retaliation against Relator Gatsiopoulos.**

73. In July 2006, Relator Gatsiopoulos and other Defendant ICM whistleblower employees (including Relator Howland) complained to Defendants about the unethical and illegal behavior explained throughout this Complaint, and informed Defendants they would expose these behaviors to the Department of Education, Inspector General, and the State Accreditation Board if they failed to remedy the situation. None of these whistleblowers still works for Defendants.

74. Soon thereafter, Defendants’ Compliance Manager met with Relator Gatsiopoulos and asked her for documentation of Defendants’ unethical practices. Relator Gatsiopoulos complied and provided Edwards with documents demonstrating, *inter alia*, examples of grade changing and teachers marking absent students present.

75. In late Summer/early Fall 2006, Defendants informed Relator Gatsiopoulos and the other whistleblowers they had completed their investigation and “everything was fine.”

76. Thereafter, Defendants repeatedly pressured Relator Gatsiopoulos to change grades, *i.e.* give students higher grades than they earned. Relator Gatsiopoulos refused to change grades.

77. Defendants also repeatedly pressured Relator Gatsiopoulos to pass students who did not attend enough of her classes to earn a passing grade. Relator Gatsiopoulos refused to pass



students who did not attend her class the requisite amount.

78. In October 2007/November 2007, after the initial Complaint in this case was filed, the United States Department of Education made an unannounced visit to Defendant ICM and copied various documents and files in regards to an investigation it was conducting in response to Counts I and II of this action.

79. In November 2007, Defendant ICM confiscated Relator Gatsiopoulos' computer's hard drive.

80. On November 29 2007, Defendant pressured Relator Gatsiopoulos to pass a student who had failed her class. Relator Gatsiopoulos refused to do this.

81. On December 4, 2007, Defendants fired Relator Gatsiopoulos in what they alleged was a reduction in force, i.e. an elimination of her position.

**Count I:**

**Defendants knowingly made False Statements to Obtain a False or Fraudulent Claim Payment or Approval in Violation of the False Claims Act, 31 U.S.C. §3729(a)(1).**

82. Relators, Gatsiopoulos and Howland, incorporate by reference Paragraphs 1-81.

83. In performing all of the acts set forth above, Defendants defrauded the United States of America by knowingly presenting, or causing to be presented, to one of more officers, employees or agents of the United States of America, specifically the DOE, a false and fraudulent claim for payment or approval, in contravention of the False Claims Act, 31 U.S.C. § 3729(a)(1).

84. As a direct result of Defendants= intentionally false certified statement, the DOE provided Defendants with a benefit in the form of Federal Funding.

85. Furthermore, Defendants' false statements and conduct were material in that they

directly caused the DOE to pay out money to Defendants.

**Count II:**

**Defendant Knowingly Made False Statements to Get a False or Fraudulent Claim Paid or Approved in Violation of the False Claims Act, 31 U.S.C. §3729(a)(2).**

86. Relators, Gatsiopoulos and Howland, incorporate by reference Paragraphs 1-85.

87. As set forth above, Defendants have knowingly made, used, or caused to be made or used, a false record or statement to obtain a false or fraudulent claim payment or approval by the United States of America, specifically the DOE, in contravention of the False Claims Act, 31 U.S.C. § 3729(a)(2), and damaged the treasury of the United States of America, by causing it to pay out money it was not obligated to pay.

88. As a direct result of Defendants' intentionally false certified statement, the DOE provided Defendants with a benefit in the form of Federal Funding.

89. Furthermore, Defendants' false statements and conduct were material in that they directly caused the DOE to pay out money to Defendants.

**Prayer for Relief**

WHEREFORE, Plaintiffs/Relators request the following relief:

1. Judgment in favor of the United States of America against Defendants, by reason of the violations of the False Claims Act as set forth above, in an amount equal to three times the amount of damages the United States has sustained because of Defendants' actions, plus a civil penalty of not less than Five Thousand Dollars (\$5,000.00), and not more than Ten Thousand Dollars (\$10,000.00), for each violation, plus three times the amount of damages which the United States Government has sustained, pursuant to 31 U.S.C. § 3729(a);
2. Award to Relators, as the *Qui Tam* Plaintiffs, of the maximum amount allowed pursuant to 31 U.S.C. § 3730(d) of the Federal False Claims Act on the United States' recovery;
3. Award Relators all reasonable expenses the Court finds to have been

necessarily incurred, plus reasonable attorneys' fees and costs;

4. Punitive damages on all causes of action, to the extent allowable by law; and
5. Such other and further relief as the Court deems proper.

**Count III:**

**Defendants Retaliated Against Gatsiopoulos for her Act of Furthering an Action under the False Claims Act in Violation of the False Claims Act, 31 U.S.C. § 3730(h).**

90. Relator Gatsiopoulos incorporates by reference Paragraphs 1-89.

91. Relator Gatsiopoulos opposed Defendants' business practices, which she believed in good faith were in violation of federal laws, and Relator Gatsiopoulos furthered an action under the False Claims Act.

92. Relator Gatsiopoulos' opposition/complaints regarding Defendants' unethical and illegal business practices and furtherance of a False Claims Act were in good faith and constituted protected activity pursuant to the False Claims Act, 31 U.S.C. § 3730(h).

93. Following Relator Gatsiopoulos' opposition/complaints and furtherance of a False Claims Act, Defendant retaliated against Relator Gatsiopoulos by firing her.

94. Defendant thus retaliated against Relator Gatsiopoulos because she complained about Defendants' unethical and illegal business practices and furthered a False Claims Act, which violates the False Claims Act, 31 U.S.C. § 3730(h).

WHEREFORE, Relator/Plaintiff Gatsiopoulos requests the following relief:

1. That the Court enter a judgment declaring Defendants' actions to be unlawful and in violation of the False Claims Act;
2. That Defendants be ordered to reinstate Relator Gatsiopoulos and provide her accumulated seniority, fringe benefits and all other rights;
3. That Defendants be required to compensate Relator Gatsiopoulos for the

full value of double wages she would have received had it not been for Defendants' illegal treatment of Relator Gatsiopoulos, with interest from the date of the termination, in addition to reimbursement for lost pension, social security, experience, training opportunities and other benefits;

4. That the Court award Relator Gatsiopoulos compensatory and punitive damages as a result of Defendants' violations of the False Claims Act;
5. That Defendants be enjoined from retaliating against Relator Gatsiopoulos in any manner that violates the False Claims Act;
6. That Relator Gatsiopoulos be awarded against Defendants the costs and expenses of this litigation and a reasonable attorney fee; and
7. Such other and further relief as the Court deems proper.

Respectfully submitted,

/s/ Christopher C. Sharp

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Local Counsel for Relators

**CERTIFICATE OF SERVICE**  
CASE NO. 09-CV-21720-PAS

I hereby certify that on January 5, 2011, the foregoing document is being served on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Christopher C. Sharp  
Christopher C. Sharp

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