

recpt # 5304

IN THE WESTERN DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

SUM 155

1541

UNITED STATES OF AMERICA, ex rel.,  
BRIAN BUCHANAN

Civil Action

No.

07-0971

Plaintiff,

v.

SOUTH UNIVERSITY ONLINE  
and EDUCATION MANAGEMENT  
CORPORATION,

Defendants.

JURY TRIAL DEMANDED

2007 JUL 12 PM 2:15  
U.S. DISTRICT COURT  
CLERK

**CIVIL COMPLAINT**

Plaintiff/Relator, Brian T. Buchanan, by undersigned counsel files this False Claims Act  
Complaint and in support alleges the following:

**I. Plaintiff**

1. *Qui Tam* Plaintiff/Relator Brian T. Buchanan is a citizen of the United States of  
America who resides at 5834 Maeburn Road, Pittsburgh, PA 15217. Buchanan worked for  
Defendant from December 2005 until May 2007 as an admissions representative. During his  
employment as an admissions representative, Buchanan held the positions of assistant director of  
admissions and associate director/project associate of admissions.

2. 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 *et seq.* and 42 U.S.C. §§  
2751 *et seq.*, as a result of the false claims alleged in this complaint.

## **II. Defendant**

3. Defendant, South University Online (“SUO”), is located at Online Student Support Center, 1400 Penn Ave. Pittsburgh, PA 15222. Defendant SUO is a wholly owned subsidiary of Education Management Corporation. (“EDMC”).

4. Defendant SUO is a proprietary institute of higher education, accredited by the Southern Association of Colleges and Schools (SACS). Defendant is a recipient of Title IV, HEA federal student financial aid funds from the United States Department of Education. (“DOE”).

5. Defendant, Education Management Corporation (“EDMC”), is located at 210 Sixth Avenue, 33<sup>rd</sup> Floor Pittsburgh, PA 15222. EDMC owns more than 75 proprietary schools, including, but not limited to, Defendant SUO.

## **III. Jurisdiction and Venue**

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

7. This action seeks remedies on behalf of the United States for violations of 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 Title IV of the HEA.

8. Relator Buchanan has satisfied all procedural and administrative requirements as required under the False Claims Act, 31 U.S.C. § 3730(b)(2), because when Relator Buchanan filed this Complaint he 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 Defendants' submission of a knowingly false or fraudulent claim for payment or approval, under the False Claims Act, 31 U.S.C.

§ 3729.

#### **IV. Background**

9. The United States Government awards billions each year to help students obtain education at colleges, universities, and proprietary 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, at which time, the institution credits its students for tuition.

10. Students are responsible for repaying the United States Government once they graduate or stop attending the institution. Oftentimes, students who are unable to complete their education are forced into dire economic situations.

#### **V. Introduction**

11. 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 2005 continually through the present.

12. From at least 2005, though Relator Buchanan suspects Defendants' illegal practices began much earlier, Defendants represented to the DOE that they were in compliance with Title IV of the HEA.

13. However, Defendants have and continue to have actual knowledge that they are not adhering to Title IV of 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.**

**A. Defendants Intentionally and Fraudulently Failed to Adhere to the Mandatory Participant Agreement of Higher Education Act, Title IV.**

14. Defendants have requested and continue to request HEA funds for students through several programs, including, but not limited to, the Federal Pell Grant Program and Stafford Loans.

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

16. 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:

[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... 20 U.S.C. § 1094(a)(20); 34 C.F.R. § 668.14(b)(22)(i).

**1. Defendants' Admission Representatives Salaries are Directly Contingent on Their Ability to Secure Enrollment.**

17. Defendants, in violation of the PPA requirements of the HEA commission ban, base admissions representatives' salaries on their ability to secure enrollment. For admissions representatives, securing enrollment requires "seating students." Generally, seating a student means an admissions representative must do whatever it takes to ensure that a prospective student<sup>1</sup> completes the appropriate application and financial aid paperwork; passes a CPT (Computer

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<sup>1</sup> Defendants refer to prospective students as "leads."

Placement Test)/Accuplacer admissions test<sup>2</sup>; and completes three assignments within seven days of the class starting.

18. Defendants cannot draw from a student's Title IV Federal Funds until the admissions representatives "seat" that student. Accordingly, Defendants instruct admission representatives to "seat" students at all costs.

19. For example, Defendants' admissions representatives, including Relator Buchanan, are/were trained to walk prospective students/leads through the application and federal aid paperwork, i.e. the admissions representative (who is *not* a financial aid representative) walks prospective students/leads through the promissory note.

20. Defendants manipulate the CPT/Accuplacer admissions testing process. Defendants do not reprimand admissions representatives who openly coach prospective student/leads through the CPT/Accuplacer admissions test. Moreover, although it is mandated that CPT tests be proctored by a non-family members, Defendants permit admission representatives to submit fraudulent proctor forms. In addition, Defendant SUO allows prospective students/leads to repeatedly take the CPT test until they get a passing score despite the required "three attempt" limit in one year. Finally, Defendant SUO will not discipline an admissions representative who takes the CPT test for the prospective student/lead if that admissions representative is making his numbers. Defendants will also manipulate prospective students transcripts to achieve an admissible GPA.

21. Defendant SUO encourages admissions representatives to "walk" students through

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<sup>2</sup> If a prospective student/lead cannot pass the CPT/Accuplacer test, and the admissions representative is unable to manipulate the CPT/Accuplacer test, then Defendants instruct admissions representatives to use the prospective student's SAT scores as a substitute for the CPT/Accuplacer test score. Defendants will admit prospective students/leads with SAT scores as low as a combined 650.

the first three assignment within seven days of the start of class.

22. As a result, Federal Funds are provided for fraudulently “enrolled” students, i.e. students who are not qualified. Many “seated” students will derive little benefit from the education, will likely have to “drop out,” and will be unable or unwilling to repay the federally guaranteed loans.

23. Defendants are aware they are violating the PPA requirements of the HEA. For example, when an accreditation agency visits one of Defendant EDMC’s sites, Defendant EDMC demands that all admissions representatives remove any evidence of sales figures, salary matrixes, student seated goals,<sup>3</sup> and/or anything that could be construed as “sales materials,” including sales training e-mails.

**2. Defendants Provide Incentives for Admissions Representatives who Secure Enrollment.**

24. In further violation of the PPA of the HEA, Defendant’s offers incentives to admission representatives who successfully enroll students/seat students.

25. Defendants award admission representatives who are the “top producers” with “President Club” membership. President club members are rewarded with trips to foreign beach resorts where they receive prizes ranging from gift cards to iPods.

26. Defendants also award admissions representatives who seat the most students out of his training class with “Circle of Achievement” membership. Circle of achievement members are

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<sup>3</sup> Defendants encourage admissions representatives to set student enrollment/seating goals. Each admissions representative is to think of something he/she has always wanted such as a BMW or a trip to the Carribean. For Relator, Buchanan, it was a Mercedes Benz G-Wagon. Then, based on Defendants’ salary matrix, the admissions representatives are to compute how many students they would have to seat to achieve this goal. Defendants tell admissions representatives to post their student goals in their cubicles for motivational purposes; however, Defendants require administrative representatives destroy any evidence of these goals when an accreditation agency visits one of its locations or else he/she will be fired.

rewarded with expensive, free lunches and awards with their names and achievements stenciled on them.

**3. Defendants Fire Admissions Representatives Who Do Not Make Their Numbers.**

27. Defendants also violate the PPA of the HEA because they terminate admissions representatives who do make their numbers. If an admissions representative fails to make his numbers Defendants will push him out. This “pushing-out” process consists of berating the admissions representative; telling the admissions representative that he is a failure; telling the admissions representatives’ co-workers that he is a cancer; placing this admissions representative on an unreasonable performance improvement plan (PIP); and if somehow the beleaguered admissions representative has not quit then Defendants will fire the admissions representative.

28. Defendants are aware they are violating the PPA requirements of the HEA when they fire admissions representatives for not making their numbers, i.e. seating students. Defendants’ directors of admissions often stated in Relator Buchanan’s presence that they wanted to fire certain administrative representatives who were not making their numbers but because this was not legal they would have to “come up” with a different reason.

**4. Defendants Actively Recruit Prospective Students/Leads.**

29. Moreover, Defendants, in direct violation of the PPA requirements of the HEA, actively recruit prospective students/leads regardless of these students’ qualifications.

30. The most common way Defendants recruit prospective students/leads is the following: Admissions representatives receive lists of prospective students/leads from a vendor. Typically these lists are comprised of people who have signed up for free things on the internet

ranging from vacations to x-boxes. From these lists, Defendants instruct admissions representatives to engage in call blitzes, i.e. call the names of the people on these lists repeatedly in an attempt to recruit them.

32. As part of the recruitment process, Defendants instruct admission representatives to invoke the “bring the pain” tactic, which entails identifying the prospective student/lead’s pain and exploiting it. For example, Defendants told Buchanan that if a prospective student/lead were a single mother then the admissions representative should say, “How are you going to explain to your children that you cannot buy them the things they need because you couldn’t be *bothered* to finish your education...” or, “Do you *honestly* think that your children are ever going to go to college and graduate after watching their mother *never even* try to finish hers?”

33. In addition, to recruit the most students, Defendants train admission representatives to rely heavily on sales tactics. During Relator Buchanan’s time as an associate director/project associate, Defendants encouraged him to provide his admissions’ team members with information regarding how to improve their sales tactics. In compliance with Defendants’ request, Relator Buchanan inundated his team with sales tip e-mails with such titles as: “More on Sales Goals...The perennial Secret To Sales Success;” “Ten Secrets of Top Closers;” “How you Can Avoid the Worst Mistake Made by Sales Pros;” “Seven Keys to Effective Daily Living, Leading and Selling;” “The 8 Steps to Success in Selling;” “Find the Buying Motive;” “Double Your Students with this one Technique.”

34. In conclusion, when Defendants request, receive and retain government-insured loan funds, Defendants know they are ineligible for those funds because of their intentional unwillingness to adhere to the PPA, i.e. Defendants have knowingly violated the HEA’s commission ban, incentive

compensation ban, and the recruitment ban.

**B. Defendants, With Knowledge, Falsely Represent Themselves as Eligible under the HEA.**

35. Under the HEA, in order for an institution to be "eligible" for federal funding, the following requirements must be met:

An eligible program must have 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(e)(i).

36. Defendant SUO does not have a substantiated completion (graduation) rate of at least 70 percent.

37. Indeed, when a prospective student/lead asks an admissions representative for graduation statistics, Defendants tell admissions representatives to state the following:

According to regulations published by the Department of Education based on the Student-Right-to-Know Act, the graduation/completion rates for first-time, full-time students who entered school in 1999 and who graduated/completed within 150 percent of the normal time to complete the program is 19%.

38. This language is problematic. It refers to a 1999 statistic; it relies on a date regarding first-time, full-time students, whereas, Defendants more generally recruits "repeat," part-time students; and the 19% is clearly below the 70% eligibility requirement mandated by the PPA of the HEA.

39. Further, Defendant does not willingly provide this skewed statistic to a prospective student/lead. Indeed, an admissions representatives is only to divulge such information *if and only if* a student or prospective student asks about the graduation rate.

40. Defendant SUO's director of admissions has announced that it only had two students who graduate since the inception of Defendant SUO.

**Count I**

**Defendant 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).**

40. Relator Buchanan incorporates by reference Paragraphs 1-39.

41. In performing all of the acts set out 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).

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

43. 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).**

44. Relator Buchanan incorporates by reference Paragraphs 1-43.

45. 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.

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

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

directly caused the DOE to pay our money to Defendants.

**Prayer for Relief**

WHEREFORE, Plaintiffs request the following relief:

- a. 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 Defendant's 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);
- b. 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;
- c. Award Relators all reasonable expenses the Court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs;
- d. Punitive damages on all causes of action, to the extent allowable by law; and
- e. Such other and further relief as the Court deems proper.

Respectfully submitted,

**Ogg, Cordes, Murphy & Ignelzi**

/s/ Samuel J. Cordes

Samuel J. Cordes

Tiffany R. Waskowicz

Pa. I.D. No. 54874 (Cordes)

Pa. I.D. No. 202933 (Waskowicz)

245 Fort Pitt Boulevard

Pittsburgh, PA 15222

(412) 471-8500

Attorneys for Plaintiff

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**(a) PLAINTIFFS**  
 United States of America, ex. rel., Brian Buchanan

**(b) County of Residence of First Listed Plaintiff** Allegheny  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
 Samuel J. Cordes, Ogg, Cordes, Murphy & Ignelzi, 245 Fort Pitt Boulevard,  
 Pittsburgh, PA 15222 (412) 471-8500

**DEFENDANTS**  
 South University Online and Education Management Corporation

County of Residence of First Listed Defendant Allegheny  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) **07-0971**

**I. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 1 U.S. Government Plaintiff  Federal Question (U.S. Government Not a Party)

1 2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**V. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY - Med. Malpractice</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))

**ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 31 U.S.C. §3730

**VI. CAUSE OF ACTION**  
 Brief description of cause:  
 This is a *qui tam* action under the False Claims Act. Plaintiff/Relator brings this action on behalf of the United States alleging Defendants defrauded the United States Government by accepting federal Pell Grant; Supplemental Educational Opportunity Grants and Unsubsidized and Subsidized Stafford Loan funds, while misrepresenting to the Government that they complied with the Higher Education Agency requirements, 20 U.S.C. §§ 1094(a)(8)(A); 1094(a)(8)(B); 1094(a)(20).

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 7/2/07 SIGNATURE OF ATTORNEY OF RECORD /S/ Samuel J. Cordes

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFF \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

JS 44AREVISED OCTOBER, 1993

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the ( Erie Johnstown (X) Pittsburgh) calendar.

- 1. ERIE CALENDAR - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
- 2. JOHNSTOWN CALENDAR - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
- 3. Complete if on ERIE CALENDAR: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
- 4. Complete if on JOHNSTOWN CALENDAR: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

PART B (You are to check ONE of the following)

- 1.  This case is related to Number \_\_\_\_\_ Judge \_\_\_\_\_.
- 2. (X) This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

1. CIVIL CATEGORY (Place x in only applicable category).

- 1. ( ) Antitrust and Securities Act Cases
- 2. ( ) Labor-Management Relations
- 3. ( ) Habeas Corpus
- 4. ( ) Civil Rights
- 5. ( ) Patent, Copyright, and Trademark
- 6. (X) Eminent Domain
- 7. (X) All other federal question cases
- 8. ( ) All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
- 9. ( ) Insurance indemnity, contract and other diversity cases.
- 10. ( ) Government Collection Cases (shall include HEW Student Loans (Education), VA Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, S.B.A. Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: 7/12/07

/s/ Samuel J. Cordes

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH SIDES MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

**UNITED STATES  
DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH Division**

**ET**

**# 07005304 - ET  
July 12, 2007**

Code	Case #	Qty	Amount
CIVIL FI 07-971		1 @	350.00
			350.00 CH
<b>TOTAL →</b>			<b>350.00</b>

**FROM: OGG, CORDES, MURPHY & IGNEZI  
245 FT. PITT BLVD.  
4TH FLOOR  
PITTSBURGH, PA 15222**