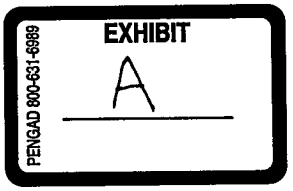
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH, PENNSYLVANIA

UNITED STATES OF AMERICA ex rel. JASON SOBEK **Plaintiffs,** **v.** **EDUCATION MANAGEMENT CORPORATION; EDUCATION MANAGEMENT, LLC; SOUTH UNIVERSITY, LLC d/b/a SOUTH UNIVERSITY ONLINE; ARGOSY EDUCATION GROUP, INC. d/b/a ARGOSY UNIVERSITY ONLINE; and THE ART INSTITUTES INTERNATIONAL, LLC d/b/a THE ART INSTITUTES ONLINE** **Defendants.**	)	**CASE NO.: 10-0131** **FILED IN CAMERA AND UNDER SEAL PURSUANT TO 31 U.S.C. § 3730(b)(2)**

SECOND AMENDED *QUI TAM* COMPLAINT

BACKGROUND

1. Through a carefully-crafted and wide-spread for-profit education scheme, Defendants Education Management Corporation, Education Management, LLC, South University, LLC d/b/a South University Online, Argosy Education Group, Inc. d/b/a Argosy University Online, and The Art Institutes International, LLC d/b/a The Art Institutes Online (hereinafter collectively referred to as "Defendants" or "EDMC") have defrauded the United States and its taxpayers out of millions of dollars in the form of federally-backed student loans



and grants. Defendants' scheme spanned all portions of a student's experience with a singular goal: enroll as many students as possible for as long as possible to maximize financial aid from the United States.

2. Educational entities such as Defendants are motivated by profit rather than student success or rankings, and therefore have every incentive to maximize enrollment by recruiting unqualified students who will not be able to repay their loans. The financial consequences of these defaults trickle down to the detriment of the federal government and its taxpayers. Indeed, schools such as Defendants have essentially borrowed the business model of the predatory lending industry, taking zero risk in signing up students for federally-guaranteed loans. If a student cannot repay his loan, Defendants do not suffer. The Department of Education's statistics show that, although students at for-profits represent only 11 percent of all higher-education students, they represent 26 percent of loan borrowers and 43 percent of loan defaulters. These statistics should be troubling to the U.S. government and its taxpayers, given that more than 25 percent of for-profits derive 80 percent of their revenues from taxpayer-funded federal financial aid.

3. Relator Jason Sobek, on behalf of the United States of America, brings this *qui tam* action pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq* (the "FCA"). As detailed herein, Defendants made, or caused to be made, false statements in order to participate in the student financial assistance programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq* ("Title IV, HEA programs," or "Title IV"). Title IV provides students with financial aid that is backed by the federal government. Defendants created and implemented a fraudulent scheme in order to remain eligible to participate in, and to reap the benefits of, these federal financial assistance programs.

4. The FCA provides that any person who submits, or causes to be submitted, a false claim to the government is liable for a civil penalty of between $5,500 and $11,000 for each such claim, and three times the amount of the damages sustained by the government. The Act permits persons having information regarding a false or fraudulent claim against the government to bring an action on behalf of the government and to share in any recovery. Pursuant to 31 U.S.C. §3730(b)(2), this complaint must be filed *in camera* and under seal, without service on the Defendants. The complaint remains under seal while the government conducts an investigation of the allegations in the complaint and determines whether to join this action.

5. Pursuant to the FCA, Relator seeks to recover on behalf of the United States damages and civil penalties arising from Defendants' knowingly false and/or fraudulent certifications of eligibility to the Department of Education ("DOE") for its Title IV, HEA programs. From at least 2004 and, upon information and belief, continuing through the present, Defendants knowingly submitted and caused to be submitted false claims for payment to the DOE based upon their false certifications.

JURISDICTION AND VENUE

6. This action arises under the False Claims Act, 31 U.S.C. § 3729 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345 and 31 U.S.C. § 3732(a), which specifically confers jurisdiction on this Court for actions brought under 31 U.S.C. § 3730.

7. This Court has personal jurisdiction over Defendants pursuant to 31 U.S.C. § 3732(a), which authorizes nationwide service of process, because one or more Defendants can be found in, reside in, transact business in and have committed acts related to the allegations in this Complaint in the Western District of Pennsylvania.

8. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. § 1391(b)-(c) because one or more Defendants can be found in, reside in, or transact business in the Western District of Pennsylvania, and many of the alleged acts occurred in this District.

PARTIES

9. Relator Jason Sobek is a resident of Pittsburgh, Pennsylvania, and was employed as a Project Associate Director of Admissions ("PADoA") for Defendant EDMC Online Higher Education's ("EDMC OHE") South University brand in Pittsburgh from June 2008 until November 2010. In that role, Relator was required to recruit students for South University Online ("SUO"), and was also responsible for ensuring his admissions team enrolled, confirmed, and secured financial aid funds for predetermined numbers of students, as mandated by EDMC corporate start plans. In the PADoA role, Relator was also required to meet or exceed his own predetermined weekly applications averages, start plans, and start rates (the percentage of students who confirmed in class and secured federal funds). Relator was responsible for ensuring that federal financial aid was completed for each enrolled student. Relator served as an assistant to the admissions team leader, which was also known as a Second Director of Admissions ("DOA II"), and he frequently attended management, strategy, planning and training meetings on behalf of his direct supervisor, Angela Shelton, a DOA II. Relator's role allowed him wide access to enrollment data, reports, training materials, and memoranda detailing the policies related to EDMC OHE.

10. Defendant Education Management Corporation is a publically-traded corporation headquartered in Pittsburgh, Pennsylvania. Each of the following Defendants is a wholly owned subsidiary of Education Management Corporation.

11. Defendant Education Management, LLC ("EDMC") is among the largest

providers of post-secondary education in North America based on student enrollment and revenue, with 106 locations in 32 U.S. states and Canada. Defendant EDMC is headquartered in Pittsburgh, Pennsylvania. Over 151,000 students were enrolled at EDMC institutions as of October 2011. EDMC offers a broad range of academic programs concentrated in the creative and applied arts, behavioral sciences, education, health sciences, and business fields. EDMC awards associate, bachelor, master and doctoral degrees, and also has non-degree programs. EDMC is second only to the University of Phoenix in amount of federal financial aid collected each year.

12. Defendant South University, LLC d/b/a South University Online is headquartered in Savannah, Georgia, and operates under the school code 013039.

13. Defendant Argosy Education Group, Inc. d/b/a Argosy University Online is headquartered in Phoenix, Arizona, and operates under the school code 021799.

14. Defendant The Art Institutes International, LLC d/b/a The Art Institutes Online is headquartered in Pittsburgh, Pennsylvania, and operates under the school code 007470.

REGULATORY OVERVIEW

The False Claims Act

15. The False Claims Act, as amended by the Fraud Enforcement and Recovery Act of 2009, Pub. L. No. 111-21[1] provides, in relevant part:

> **Liability for Certain Acts.** (1) **In General** – Subject to paragraph (2), any person who – (A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; ... or (G) knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or

[1] The FCA was further amended on March 23, 2010 by the Patient Protection and Affordable Care Act ("PPACA"), Pub.L. 111-148, 124 Stat. 119. PPACA did not impact the portions of the FCA quoted here.

> decreases an obligation to pay or transmit money or property to the Government, is liable to the United States for a civil penalty of not less than [$5,500] and not more than [$11,000]...plus 3 times the amount of damages which the Government sustains because of the act of that person.

31 U.S.C. § 3729(a)(1).

> **Actions by Private Persons.** (1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government.

31 U.S.C. § 3730(b)(1).

Department of Education Regulations and Defendants' Certifications to the Government

16. The Department of Education regulates educational institutions that participate in any student financial assistance programs authorized by Title IV of the Higher Education Act. Title IV includes several federally-funded programs, including the Pell Grant program, Federal Stafford Loans, and Federal Perkins Loans. The Pell Grant program provides need-based grants to low-income undergraduate and certain post-baccalaureate students to promote access to postsecondary education.

17. In order for a student to receive federal grants and/or federally-backed loans, the student must attend a school that is eligible to participate in the Title IV, HEA programs.

18. Defendants sought and obtained eligibility to participate in Title IV, HEA programs as proprietary institutions of higher education. Defendants are therefore required to comply with a number of federal regulations.

19. In order for a school to obtain eligibility to participate in Title IV, HEA programs, the school must first enter into a Program Participation Agreement ("PPA") with the Secretary of Education. This is a contract in which the school agrees that its participation "is subject to the terms and conditions set forth in [the] Agreement." Additionally, the participating school agrees

to "comply with the programs' statutes and implementing regulations for institutional eligibility as set forth in 34 C.F.R. Part 600 and for each Title IV, HEA program in which it participates, as well as. . . the Student Assistance General Provisions regulations set forth in 34 C.F.R. Part 668."

20. Defendants signed numerous PPAs with the DOE from at least 2004 through the present, and promised in each PPA to comply with all program statutes and regulations.

DEFENDANTS' FRAUDULENT SCHEME

21. All of Defendants' schools to abide by a simple formula: recruit as many students as possible with the greatest financial needs possible and enroll them in high-cost programs to maximize the amount of federal funding received. Defendants had a corps of recruiters, all well-trained in sales and closing techniques, who perfected the art of preying on the hopes and dreams of vulnerable students desperately seeking better lives. Students did not realize until too late that the school they trusted actually regarded them as nothing more than a means to more federally-backed loans and grants.

22. Defendants have built their business on a predatory scheme that affects every aspect of a student's experience. From aggressive and misleading marketing practices designed to target vulnerable students, to their admissions representatives' compensation structure, which was based on per-head recruiting quotas, to their failure to adequately track students' progress and attendance, Defendants made it abundantly clear that they viewed students as dollar signs, and did not care about whether the students they enrolled were ready for college, much less whether they succeeded once they enrolled.

23. From at least 2004, and upon information and belief, continuing through the present, Defendants refused to abide by federal regulations put in place to protect students, and instead focused on maximizing the "for-profit" title they richly deserved. Each time Defendants

made certifications to the DOE, Defendants were aware they were not in compliance with mandatory regulations, and that they had no intention of complying if it meant sacrificing profit margins.

24. Defendants' nationwide false claims and certifications have caused, and continue to cause, financial harm to the United States and its taxpayers.

Defendants Made Substantial Misrepresentations to Students

25. Defendants solicited potential students from a wide variety of sources: radio and television advertising, direct internet advertising, and responding to open internet inquiries. From 2004 through the present, aggressive and financially-motivated admissions representatives responded to leads with a single goal: enroll students at any cost. Misleading or directly lying to potential enrollees was rampant and expected in the boiler-room atmosphere. Indeed, recruiters' very livelihoods were dependent on such statements because bonuses and job retention were based on meeting and exceeding per-head recruiting quotas.

26. Defendants' were very aware of the population they were targeting: a troubled population, which included, but was not limited to, the poor, the undereducated, the homeless, those who were the first in their families to attempt higher education, those with criminal records, those who were mentally and emotionally challenged, single mothers on welfare, and those living in shelters and halfway houses.

27. In their numerous and continuous certifications to the government, Defendants agreed to comply with all federal regulations, which include the provisions of 34 C.F.R. § 668. Defendants caused misrepresentations to be made to their potential incoming student population to induce them to enroll. Students cannot make informed decisions about whether they are prepared to handle a higher education course-load, as well as the price tag that comes along with

it, if they are being misinformed about the cost of the programs, job placement statistics, and programmatic accreditation by a school's admissions representatives.

28. Defendants encouraged their admissions representatives to mislead incoming students because corporate investors were monitoring their enrollment numbers, and Defendants wanted to show that enrollment and revenue were constantly growing. Because Defendants caused their admissions representatives to lie to students, the United States is currently footing the bill for students who should not have enrolled in Defendants' schools, and who would not have enrolled but for Defendants' blatant misrepresentations. Defendants' marketing practices were specifically designed to prey on individuals' weaknesses and vulnerabilities in order to get them to enroll in classes and sign up for federal loans and grants.

29. EDMC's selling techniques relied on aggressiveness, persistence, and pushing prospects' "hot buttons," which were uncovered through in-depth interviews with recruiters. The schools' trainers called this technique "digging deep." EDMC trained recruiters to uncover a prospect's motivation, so that this motivation could later be used to overcome that prospect's objections. Recruiters were trained to fill out a "Student Success Profile" for each interview in order to "insure the success of the student and uncover the student's needs." In fact, this Student Success Profile was merely a way to discover a student's "hot buttons" and provide a quick way for representatives to find ways to talk the student out of withdrawing.

30. This so-called Student Success Profile provided a chart highlighting the essential elements of the sales technique used at EDMC. The form provided space for recruiters to note the prospect's "confirmed need" for attending college and the "hot buttons" that could be used to overcome that prospect's potential objections. These hot buttons were described as "pleasure" and "pain."

31. A training document used in role-playing exercises with EDMC recruiters elaborates on those pleasure and pain principles. During training, recruiters were asked, "what motivates people to do things?" The answer at EDMC is: "pleasure and pain."

32. Recruiters were taught to dig deep in order to find their prospects' "confirmed needs." Trainers described a "potential need" as the reason given by a prospective student as to why he or she wants to attend college to earn a degree. They illustrated a "confirmed need" as a potential student explaining that he needed "a bigger house to have more kids in a better neighborhood so that they can live a better life." Once a recruiter received a "large commitment," he was to push the student to apply. According to the training, recruiters were told to probe until the potential student provided a confirmed need.

33. Additionally, recruiters were taught to talk "easily" with the prospects, to build rapport and friendships with them, and to ask open-ended questions in an effort to uncover potential and confirmed needs. Those open-ended questions enabled recruiters to gather "golden nuggets" of information and the "hot buttons" needed to overcome prospects' objections. A training document added:

> "When are you allowed to call a student a LOSER? When they give us permission by telling us why they think they are a loser. You can repeat it back to them."

34. Recruiters were instructed to paint a picture of the past, the present, and the future. Recruiters were taught to describe the future, both with and without a degree from EDMC while using the "golden nuggets" and "hot buttons" uncovered during the "uncovering needs" process. EDMC taught recruiters to close their sales by restating what they had been told by the prospects, using the hot buttons to complete the transactions.

35. EDMC heavily marketed its school brands through direct mail and email

campaigns, internet advertisements, television, radio, print publications, and outdoor billboards. These marketing campaigns, internally called "lead sources," were bolstered through field recruiters who canvassed high schools to recruit recent graduates, contracted telemarketers, and partner web sites that enticed would-be students seeking information on higher education to provide contact information so that the web sites could "match" the prospective student to a partner school. Prospect information gathered from the internet was funneled electronically to in-house recruiters for immediate contact through an automatic dialing system, internally referred to as "PACE." Supervisors then pushed recruiters to contact everyone within fifteen minutes in an effort to keep competitors from snatching detailed trend analyses of leads produced by the lead sources. This enabled EDMC and its supervisors to identify the prospects that were most likely to enroll at an EDMC school before the prospects were ever contacted by recruiters. In order to maximize enrollment, these top leads were directed to EDMC's top in-house recruiters, as measured by performance evaluations and trend reports. The recruiters with the highest start rates handled telephone calls that were "warm transferred" from internet sites and contracted third-party telemarketing and recruiting centers. In these cases, prospective students who were telephoned by a third-party vendor that contracted with EDMC, such as Education Connection and Double Positive, were transferred directly to EDMC's in-house recruiters. In many instances, "warm transfers" were contacted after they filled out online job applications, and were not even seeking information about education when they were transferred to EDMC recruiters. EDMC recruiters then attempted to convince the warm transfer that it would be much easier to get the advertised job with an education from an EDMC-brand school.

36. For example, after exceeding his quota by 500 percent in the summer of 2008,

Relator received many warm transfers from partner and job hunter web sites. While these transfers came from many sources, three of the most prominent were Education Connection, ESM and Career Builder.com Through detailed conversations with these would-be students, Relator learned that many had been warm transferred to his cubicle after completing an online application for a job or contacting an online job site. While the lead sources varied, the student prospects told remarkably similar stories: Job hunters were told that they did not have the credentials to get the advertised job, and were then convinced that a college degree would change their futures. A job hunter turns into a prospective college student, and is then warm transferred to recruiters at EDMC. Many of these prospects had applied for positions on Careerbuilder.com and Warehouse.com. Data maintained by EDMC records and describes the lead sources for students and whether they were warm transferred to school recruiters. Together, leads provided by EducationConnection.com, Careerbuilder.com and ESM represent 6 percent of the total students enrolled at South University.

37. On the floor of the telephone boiler rooms, Defendants' schools ratcheted up the pressure to sell from year to year. Sophisticated telephone systems direct-dialed one prospective student after another, and transferred them to any available recruiter. Computerized tracking software monitored everything from "talk time" to the number of interviews conducted by recruiters, to the number of students enrolled and the number who actually start classes.

38. Calls were monitored. Daily tracking reports recorded progress. Weekly and monthly reports compared the number of students enrolled and the number who started in class to the budget—called a "plan," created by corporate executives—for each recruiter, each recruiting team and the teams' supervisors. The result was pressure to sell at all costs. Recruiters

and supervisors who met these quotas were rewarded. Recruiters who did not measure up were fired.

39. Recruiters at EDMC's ground campuses and online schools pitched 1.4 million "workable inquires" in fiscal year 2010, enrolling 72,912 students. Historically, at the brand's largest online school, South University, almost half of those who enroll cancel before ever attending a class. Only 1.25 percent of students who sign up for classes actually graduate.

40. EDMC generated the 2010 inquiries with a marketing budget of more than $75 million for its Art Institutes, Argosy University and South University brands. The majority of that advertising was placed though internet lead generators. EDMC paid per inquiry, with the amount based upon the type of lead.

41. It is no secret that EDMC targeted a troubled population with its extensive marketing budget. EDMC's schools made a practice of persistently hounding students until they enrolled, and gave very little thought to what happened to those students after their financial aid packages were completed. Through the predatory marketing scheme described above, Defendants caused numerous, blatant misrepresentations to be made to their students in order to entice them to enroll, in direct violation of the provisions of 34 C.F.R. § 668.

(a) Misrepresentations as to Program Accreditation

42. Misrepresentation by an institution as to the nature of an educational program includes, but is not limited to, false, erroneous or misleading statements concerning-

(a) The particular type(s), specific source(s), nature and extent of its institutional, programmatic, or specialized accreditation;

(b)(1) Whether a student may transfer course credits earned at the institution to any other institution;

(2) Conditions under which the institution will accept transfer credits earned at another institution;

(c) Whether successful completion of a course of instruction qualifies a student—

(1) For acceptance to a labor union or similar organization; or

(2) To receive, to apply to take or to take the examination required to receive, a local, State, or Federal license, or a nongovernmental certification required as a precondition for employment, or to perform certain functions in the States in which the educational program is offered, or to meet additional conditions that the institution knows or reasonably should know are generally needed to secure employment in a recognized occupation for which the program is represented to prepare students.

34 C.F.R. § 668.72.

43. In 2009, Defendant South University asserted on its campus tours that its MSN Nurse Practitioner and Accelerated RN to MSN nursing programs were CCNE-accredited, but they were not. The school's website and lead sources also asserted that the programs were CCNE-accredited. Students who relied on these false statements and attended Defendant's nursing programs often found themselves unable to practice in the nursing field after graduation or transfer their credits to a properly-accredited program, as CCNE-accreditation is required in several states. When asked specifically whether recruiters should tell prospective nursing students that portions of the programs were not accredited, the Associate Director of Nursing and Health Professions said:

"No, you don't have to say that we are not accredited yet, but if they do ask, you have to tell them that we are in the process."

44. Anita Shaughnessy, South University's Director of New Programs, was quick to

instruct recruiters specializing in health care. In a January 8, 2010 email, Shaughnessy explained that it had come to her attention that many students were not fully aware that some of the school's nursing programs were not accredited. She told recruiters that the school did not know when the program would finally get accredited, and added:

> "It is vitally important that we **do not** in any way indicate that our program will allow them to take advance practice nursing exams. The student must be a well-educated consumer. They need to check with their state nursing board. We have come across a couple of states so far, Maryland and Tennessee, that require the MSN program to be accredited. We are going to compile a list of states that require CCNE accreditation and determine any additional approval process we may need to meet. This will take some time."

Although students were being led to believe the Nurse Practitioner program was CCNE-accredited by the school's website, campus tours, and lead sources, Ms. Shaughnessy did not instruct the recruiters to correct that assumption or inform students that the program was not CCNE-accredited.

45. On January 26, 2010, a nursing student, identified as Student 1 for purposes of this Complaint, emailed South University and asserted that its website was misleading. She demanded to know if the Nurse Practitioner program was accredited, and if she would be able to take her nursing board exams upon completion of the program. Student 1 said:

> "My point in this is that I need to know if the NP program is accredited and which national agency can I apply to take my boards once I finish the program. If the program is not accredited when will it be accredited and will current students be grandfathered in. This degree takes a lot of time and money and before I get too far into the program I need

to know exactly what I am looking at. . . To be honest the information on the website is misleading in so far as it says the entire program both tracks are accredited."

46. As recently as March 2011, students were still complaining about being pushed into enrolling into South University's nursing programs without being told the programs were not CCNE-accredited at the time of their enrollment. These students relied on statements made by the school's website, as well as statements made by SUO's admissions representatives. Many of the admissions representatives were also shocked to find out the programs were not CCNE-accredited.

47. Defendants' PPAs required that they certify that they complied with all federal regulations governing Title IV, HEA programs. Federal regulations prohibit schools from misrepresenting the accreditation of their educational programs to students. Therefore, every federal student aid application submitted from one of Defendants' schools that enrolled students based on misrepresentation of the accreditation of their MSN Nurse Practitioner and Accelerated RN to MSN nursing programs was a false claim for payment made to the Department of Education.

(b) Misrepresentations as to Job Placement

48. In the case of an educational 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) The most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

34 C.F.R. § 668.14(b)(10).

49. Defendants' recruiters were trained to tout job placement rates and potential salaries to students they were seeking to enroll. They were also trained to promise that Defendants' schools would provide assistance to graduates seeking employment. Recruiters relied on internal documents for job placement statistics and, in 2009, told students that 87 percent of The Art Institutes graduates and 92 percent of South University graduates were employed in a field related to their studies. In July 2009, graduate statistics listed the average salary for South University graduates at $51,000, and the average salary for The Art Institutes graduates at $31,455.

50. Defendants' recruiters' sales pitches failed to inform students that Defendants kept two sets of job placement statistics: one set was kept for accrediting agencies, the other set was kept for prospective students, employers, and the "investment community." The differences between these two reports hinged on which graduates were counted in the statistics. Placement rates quoted to potential students eliminated graduates who were single, stay-at-home parents, as well as graduates with jobs outside their fields of study. These reductions artificially inflated the job placement rates. On the other hand, reports provided to state regulators and the accrediting agencies responsible for evaluating EDMC schools included the single, stay-at-home parents and the graduates with jobs outside their fields. The Career Services Statistical Reporting Procedures explained:

> "This category does not meet the waiver guidelines of most accreditation and state agency governing bodies and these employments are counted differently on those reports. The waiver does, however, determine the numbers EDMC reports internally and externally, including to prospective students, employers and the investment community."

51. The recruiting sales pitches did not tell prospective students that Defendants'

considered graduates who worked only for a single day to be "employed," which was a policy put in place after too many graduates failed to show up for their second day of work. The internal reporting procedures explained that in order to be counted:

> "The graduate must work at least one day. No additional days on the job are required as long as the grad went to a job that fit their skill level."

52. Defendants' recruiters also failed to point out that EDMC's rules allowed for counting a graduate as working in his or her field when as little as 25 percent of the job related to the graduate's education. The Art Institutes counted a graduate as being employed in the field if 25 percent of the job relates to the graduate's educational program's "core competencies." South University and Argosy University considered a graduate to be employed in the field if 50 percent of the job related to the "core competencies" of that graduate's educational program. For example, EDMC counted the following graduates as working in their fields:

Degree	Position	Employer	Salary
BA-Business Administration	Teller	Washington Mutual	$22,800
AA-Fashion Marketing	Sales Associate	Converse Outlet Store	$14,424
AA-Interior Design	Sales Associate	Target Stores	$19,273
Accounting – Diploma	Cashier	McDonald's	$15,700
BA-Game Arts Design	Customer Service Representative	The Cartoon Network	Estimated $36,000
BA-Game Arts Design	Tester	Game Stop	$15,600 *
AA-Business Management	Customer Service Representative	Wal-Mart	$16,549

*Game Stop doesn't employ testers

53. EDMC's job placement statistics also counted graduates who were self-employed

as graduates who were working in their fields of study. Their salaries were generally listed between $10,000 and $31,000. Many of these students "started their own businesses" because they could not find jobs with an EDMC degree.

54. Defendants' PPAs require that a school certify that, if it makes representations about job placement statistics, that the statistics be readily supportable in information available to prospective students. Defendants' purposeful and systemic job placement misrepresentations, evidenced by the existence of two sets of books regarding job placement statistics, violated their obligation to the Department of Education and caused their certifications to be false. Therefore, every federal student aid application submitted from one of Defendants' schools that purposefully misled students about job placement rates and opportunities was a false claim for payment.

(c) Misrepresentations as to Cost

55. Institutional information that the institution must make readily available to enrolled and prospective students under this subpart includes, but is not limited to—

(1) The cost of attending the institution, including—

(i) Tuition and fees charged to full-time and part-time students;

(ii) Estimates of costs for necessary books and supplies.

34 C.F.R. § 668.43.

Misrepresentation concerning the nature of an eligible institution's financial charges includes, but is not limited to, false, erroneous, or misleading statements concerning—

(c) The cost of the program and the institution's refund policy if the student does not complete the program;

(d) The availability or nature of any financial assistance offered to students,

including a student's responsibility to repay any loans, regardless of whether the student is successful in completing the program and obtaining employment; and

(e) The student's right to reject any particular type of financial aid or other assistance, or whether the student must apply for a particular type of financial aid, such as financing offered by the institution.

34 C.F.R. § 668.73

56. Defendants routinely tracked students who withdrew, dropped out or failed out of their programs. Students from South University, Argosy University and The Art Institutes were surveyed to find out why they left the schools. Responses from Defendants' students frequently included complaints that they were misled about costs and the educational programs.

57. Defendants trained their recruiters to avoid speaking about the costs of a degree and the specifics of their educational programs. Costs were discussed only if the student repeatedly asked, and even then, a response was generally only given as to cost per credit hour of the course, not the total price of a program. However, while recruiters may have discussed cost per credit hour, they were trained not to discuss the number of credits the student would be required to take. Although the total cost of The Art Institutes' programs were included in its arbitration agreement, students were steered past the arbitration link on their enrollment agreements. If students did ask about the total cost of programs, they were frequently told to use a calculator and figure it out themselves, a difficult task for many of the students recruited by EDMC's schools.

58. In a December 9, 2009 admissions training session attended by Relator, the

supervisor of one of the top-selling admissions teams, Glen Washington, told his colleagues to bully prospective students until they enrolled. Mr. Washington said recruiters should take risks and not worry about compliance issues because they have three "Get Out of Jail Free Cards." Mr. Washington told other admissions team supervisors that if recruiters were caught breaking the rules, they should simply say: "I didn't know," "I forgot," or "Nobody told me."

59. Relator and his colleagues were told that they should spend no more than fifteen minutes explaining a program and its costs before walking prospects through the online application and financial paperwork necessary for enrollment.

60. Defendants' PPAs required that they certify their schools exhibited complete candor and honesty while informing students about the costs of attending their institutions, as well as the amounts borrowed on the students' behalves to finance their educations. Defendants' purposeful misrepresentations regarding the costs of their programs violated this obligation and caused their certifications to the Department of Education to be false. Therefore, every federal student aid application submitted from an EDMC-brand school that purposefully misled students about the true cost or substance of an educational program was a false claim for payment.

Defendants Did Not Adequately Track Student Progress

61. In order for a school to participate in any federal grant or loan program, it is required to establish, publish and apply reasonable standards for measuring whether an otherwise eligible student is maintaining satisfactory academic progress in his or her educational program. 34 C.F.R. 668.16. Under 34 C.F.R. 668.16(e)(3), an institution's policy is considered reasonable if it is applied consistently to all students, e.g., full-time, part-time, undergraduate and graduate.

62. Additionally, in order to receive any federal grant or loan, a student must

maintain satisfactory progress in his or her course of study according to the educational institution's published standards of satisfactory progress. 34 C.F.R. 668.32. A student is maintaining satisfactory progress if (1) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and (2) the student has a cumulative "C" average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the student's second academic year. 20 U.S.C. 1091.

63. The Satisfactory Academic Progress ("SAP") rules are meant to keep students from staying in school forever, as well as to keep colleges that receive federal funding for their students from milking the proverbial "cash cow" forever.

64. Defendant South University's 2009-2010 course catalog listed (at page 72) its "Minimum Standards for Academic Progress" as maintaining a minimum acceptable cumulative grade point average, achieving the minimum incremental completion rate, and completing the program within a maximum allowable time frame. The catalog also stated (at page 73) that students would be academically dismissed for any of the following conditions: having a cumulative grade point average ("CGPA") below 2.0 at the end of the seventh quarter of the program, having an incremental completion rate ("ICR") below 66.67% at the end of the ninth quarter, or failing to complete all program requirements within the maximum allowable time frame.

65. Contrary to its public pronouncements and internal policies, South University Online routinely failed to have any plan in place to calculate SAP for several hundred of its students each year. Frequently, SAP would not be calculated for a year or more.

66. Relator believes that the procedures regarding SAP calculation at Argosy

University and The Art Institutes also violated internal school rules, publicly stated policies, and federal law.

67. In 2006, EDMC decentralized authority over the SAP evaluation procedures among its four educational systems. This decentralized structure led to inconsistent application of SAP policy, in direct violation of 34 C.F.R. 668.16(e)(3).

68. Defendants' institutions also should have used specific policies and procedures to evaluate and grant student appeals of SAP violations. The SAP appeals policy at South University, for example, says in part:

A student is allowed one and only one re-entry after being academically terminated.

However, despite this published policy, students at South University were frequently granted repeated appeals even after academic termination, for students who were pressured to re-enroll by Defendants' admissions representatives.

69. EDMC also had a policy discussing student transfers, which stated:

A student may change his or her program at any point of his or her enrollment, provided that s/he is in good satisfactory academic standing. Only then will a student be allowed the opportunity to change from one program to another.

Despite the program transfer policy, EDMC schools routinely allowed students with subpar grade point averages to transfer from one academic program to another. Even students on academic probation were allowed to switch programs. Students with low GPAs were allowed to switch programs when their SAP evaluations were due, which re-started the clock on measuring academic progress. For example, between 2007 and 2010, approximately 7 percent of South University's students who transferred programs did so at a time when they should have had a SAP evaluation. Almost a quarter of those students had posted GPAs of 2.0 or less.

70. Defendant South University did not have an attendance policy. Instead, it relied on students to log into online classes, post comments, and complete the required course work. South University's attendance records from October 2008 through November 2009 indicate that two out of every five students who enrolled in online courses spent a third or less of the required class time online. Fifty percent of the students spent only 40 percent or less of the required class time logged into their online classes.

71. In order to justify the continued receipt of federal financial aid for students, South University Online was required to verify that students were actually attending classes. To satisfy this requirement, South University created the "Week 3 Grade F Policy." Instead of withdrawing students who did not attend classes, the University's Week 3 Grade F Policy required that delinquent students receive a grade of "F," which illegally entitled South University to continue to receive federal aid for those students. A portion of the Week 3 Grade F Policy reads:

> "South University does not have an attendance policy. However, in order to justify receiving and keeping financial aid for a student, we must verify that they are actually attending classes. So, the Week 3 process was created as a way to verify attendance to remain in compliance with Financial Aid. The process originally involved immediately withdrawing a student who was not participating. This was detrimental to students, so the process was changed so that, instead of being withdrawn, students would receive final grades of 'F.'"

72. An example of the Week 3 Grade F Policy at work was illustrated in the case of

a student identified as Student 2 for purposes of this Complaint. Student 2 was enrolled by South University Online recruiters after she researched higher education at a college help center in February 2009. On February 18, 2009, the school waived her application fee. She was scheduled to start class in April 2009. However, shortly after enrolling, Student 2 attempted to withdraw from South University Online by contacting her academic advisor, Christian Manring. Despite numerous phone calls over a period of months, counselors at South University failed to contact Student 2 or drop her from classes. Though Student 2 requested she be dropped and made it clear that she was not participating in her online classes, South University continued to certify Student 2's attendance and receive federal aid on her behalf. Although Student 2 was not attending classes, South University gave her a failing grade instead of allowing her to withdraw, which was done in an effort to maximize the receipt of federal aid. Student 2 first attempted to drop her classes in April 2009. Internal South University records, however, indicate that her last day of attendance was officially October 26, 2009. South University finally withdrew Student 2 from classes only after Relator intervened on her behalf.

Defendants Give Incentive Compensation to Recruiters

73. The Higher Education Act prohibits colleges and universities from providing "any commission, bonus, or other incentive payment..." to recruiters based on recruiting activities. HEA 487(a), (a)(20). The statutory ban was enacted in 1992 amid reports of numerous institutions enrolling unqualified students for the sole reason of receiving federal student aid funds from the United States Government. The statutory incentive compensation ban is a core prerequisite to an educational institution's eligibility to request and receive federal Title IV funds.

74. The United States Government awards billions of dollars per year to help students

obtain their educations at colleges and vocational schools. In many instances, however, these federal funds do not go directly to the students. Instead, the educational institutions request the funds from the Department of Education or a third party lender, and the funds are wired directly into the institutions' accounts. The institutions then credit their students for tuition.

75. Students are responsible for repaying the United States Government once they graduate or cease attending a university. Students who are disqualified from attending a college or university must still repay federal loans. These students, who are often unable to complete their educations and obtain jobs, are forced into dire financial situations. Those students who are not dropped from schools, such as those run by EDMC, are required to take additional courses in order to stay enrolled. The institutions, meanwhile, retain the fraudulently obtained funds.

76. In flagrant violation of the incentive compensation ban, Defendants have engaged in behavior that involved paying bonuses and other incentive payment to its recruiters based solely on their success in ensuring enrollments. Although Defendants' violations of the incentive compensation ban were long-standing, they became even more flagrant with the changes made to the compensation policy in December 2008. EDMC's alteration of its Admissions Performance Plan, specifically, the way in which Defendants' schools implemented the compensation "Matrix," was done simply to further increase student enrollments by incentivizing all of its admissions representatives to recruit as many new students as possible.

77. Prior to December 2008, new admissions representatives were not permitted to be paid according to the Matrix until they had been with the company for at least one year. Even after a year, admissions representatives could opt out of the Matrix plan, and could instead choose to limit themselves to a 0-6% salary increase based strictly on qualitative factors. As of December 1, 2008, ALL admissions representatives were required to be paid according to the

Matrix, and were therefore compensated **solely** on their student enrollments, not on qualitative factors. This caused new student enrollments to skyrocket. Relator has direct personal knowledge of this change in incentive compensation policy because he was employed with the company both before and after December 1, 2008.

78. Demotions, terminations, promotions, raises, preferential work schedules and the quality of "leads" were all based directly on a recruiter's success in enrolling and starting students at Defendant schools. The 2008-2009 EDMC Admission Compensation Plan provided examples of the numbers of new students needed to "meet expectations," as well as the associated salary levels. The Compensation Plan (at page 11) used this example:

Hire date: August 1, 2008; Review date: February 1, 2009 (1st Review)

18 new students, 8/1/2008-1/30/2009 (3 points each) --------- 54

Quality Points (Meets Expectations) ---------- 14

Annualized baseline salary ---------- $39,000

Hire date: August 1, 2008; Review date: August 1, 2009 (2nd Review)

30 new students 2/1/2009-7/30/2009 (3 points each) ---------- 90

Quality Points (Meets Expectations) ---------- 15

Annualized baseline salary ---------- $44,000

79. For example, Relator received 20 quality points ("Highly Effective") on the admissions performance review/compensation matrix for all four of his bi-annual reviews, yet his pay fluctuated within a range of $30,000 per year ($15.38-$29.56 per hour) based solely on the number of students he recruited.

80. Defendant EDMC emphasized the connection between salary and recruiting in an

interactive chart titled, "What is Your Income Going to be Next Year?" This interactive "Matrix Calculator" calculated the number of new students that a recruiter needed to enroll in order to earn a specific salary. After a recruiter chose an income between $33,000 and $103,000, the calculator determined the number of new students he or she needed to obtain that salary by year, admissions cycle, and week.

81. Recruiting quotas were tracked in hourly, daily, weekly, monthly, and quarterly reports, as well as in performance reviews and emails setting out "expectations." Admissions supervisors were reminded by email about their teams' performances. In a November 2009 email to the Directors of Admissions II team, Senior Director of Admissions Sam Yaghoubi explained:

> "Fridays are big days for us and we have some serious making up to do for the production from earlier this week. Get your teams focused and dialing... We should not have anyone with less than 150 calls and 3 hours of talk time. Don't forget about the goal to be on the board by noon... PGH [Pittsburgh], you have 30 minutes to get there."

82. A main goal for admissions representatives was to ensure that enrolled students became "confirmed" in their classes. Confirmation occurred once a student logged into an online class, posted a short autobiography, and responded to posts by at least two other students in the course. This process could take as little as ten minutes. Unbeknownst to the student, once the confirmation process was completed, he or she lost the ability to withdraw from the course, and the school began processing the student's loan application and collecting federal funds on his or her behalf.

83. In a December 13, 2009 email to admissions supervisors, Director of Admissions

Traci L. Roble instructed the admissions teams to call 124 students who had not yet confirmed and welcome them to class. In a detailed statement, she wrote:

> "We must attach a minimum of 60 more students to class today, MOVE basis, MOVE students in to 4/5 [financial aid packaging]."

84. A recruiter who did not keep pace with expectations received a written discussion memo outlining his or her "deficient performance." These memos noted, among other things, prior 4-week application (enrollment) averages, start rates (number of applicants who have confirmed in class), and tenure of the recruiter (upon which start plans were based). Recruiters who received these discussion memos were told, in writing, that they were expected to meet the minimum expectations of their roles. Additionally, they were assigned to training tasks, such as listening in on recruiting calls made by a representative who was exceeding his or her numbers (also called "Y-Connecting") and attending EDMC training sessions.

85. Recruiters who did not increase sales after receiving a Discussion Memo were then issued a Performance Management Plan ("PMP"), which stated that "if noticeable improvement is not met, accelerated disciplinary action up to or including termination may occur." These reports described in detail the "unacceptable performance or conduct" as failing to meet "minimum expectations," and what the recruiter needed to do to improve. The deficiencies were reduced to a chart that compared the number of students who enrolled, and subsequently started school, to the recruiter's predetermined "plan."

86. Sales and trends for each admissions representative and each admissions team were tracked in weekly reports. These reports measured "production" by week, past month, and past three months. The weekly reports also broke down performance by individual admissions representative, the hire date of the admissions representative, and the admissions teams. The

weekly admissions reports supplemented daily "flash" reports, which tracked and compared actual inquiries, applicants, and applications by tenure to the EDMC plan. These reports were generated for admissions teams in each of Defendants' schools.

87. The admissions team supervisors, or the DOA IIs, were evaluated on expectations of enrollment quotas that were detailed in plans. These plans listed the expected numbers of gross applications, student starts, reinstated students, rollovers and pullbacks. Team supervisors who did not meet the criteria were demoted or terminated.

88. As an academic session neared, recruiters who were in danger of missing their own quotas, or who were working on teams that were in danger of missing quotas, were required to work overtime and weekends in an effort to recruit enough students to meet EDMC's plans. Recruiters and teams in danger of missing their goals routinely enrolled students who applied after the start dates for academic terms, called "pullback students." Many pullback students were enrolled in classes as late as ten days after the start of the term. These students frequently began class without books and before their federal financial aid paperwork has been completed. Although pullback students were forced to start the term late, they were marked as having attended the first days of class. Defendants calculated pullback students' federal financial aid based on the start date for classes, not when the students actually began attending school. Pullback students routinely missed the add/drop period for classes at the beginning of a term, which only ran for a few days. Therefore, many pullback students were not afforded the opportunity to withdraw from classes once they had been enrolled.

89. These pullback students allowed recruiters to meet their quotas, but they were between 29 and 46 percent more likely to fail their classes, and one-third more likely to drop out altogether, than students who started their terms on time. Enrollment data from South University

Online showed that 6.6 percent of all enrolled students from April 2004 through November 2009 were scheduled post-start. Because terms at some of the Defendant schools totaled less than 6 weeks, pullback students frequently missed up to one-fourth of their class time. The pullback students were pushed into enrolling by admissions representatives even though Defendants' Instructional Specialists noted students would benefit more if the pullbacks were no longer allowed to occur.

90. A December 2009 evaluation conducted by Defendant EDMC catalogued the effect of "post starts" on courses that began in the summer of 2009 at the Art Institutes, South University, and Argosy University. The December 2009 EDMC Persistence Summary Review found that of the newly enrolled students, 25 percent of the Art Institutes' students, 36 percent of South University's students, and 26 percent of Argosy University's students had begun classes "post start." However, Defendant EDMC continued to receive federal financial aid for these pullback students in violation of its agreements with the U.S. Department of Education.

91. Admissions representatives at Defendant schools also routinely enrolled mentally ill students without discretion. In an effort to meet start plans, representatives routinely sold financial aid stipends to mentally ill prospective students, along with promises of excess funds for vacations, bills, or other "needs" the prospective student disclosed during the interview process. Mentally ill students were frequently required to retake classes, and were very likely to default on their federal student loans.

92. Defendant Art Institutes Online paid its Career Services counselors bonuses based on (1) the percentage of graduates successfully employed three months and six months after graduation, (2) whether the graduates' average starting salary exceeded $29,545, (3) whether the counselors completed exit interviews with 50 percent of the previous class, and (4) whether the

counselors submitted two student success stories to the marketing department. The bonuses ranged from $700 to $3000 per quarter.

93. Defendants' PPAs required they certify that they were in compliance with the HEA's incentive compensation ban. Defendants' purposeful and flagrant disregard of the incentive compensation ban, evidenced by their implementation of the compensation Matrix and their highly aggressive "start plans," violated their obligation to the Department of Education and caused their certifications to be false. Therefore, every federal student aid application submitted from one of Defendants' schools that violated the incentive compensation ban was a false claim for payment.

Defendants Received Federal Financial Aid as a Result of their False Claims

94. Through their numerous false certifications to the government, Defendants intentionally misled the United States to believe they were eligible to participate in Title IV, HEA programs when, in fact, they were not. The United States relied on Defendants' state licenses and program approvals, all of which were secured through false certifications.

95. Defendants receive federal funds from several different Title IV, HEA programs in the form of grants and loans.

96. In addition to Pell Grants, which do not have to be repaid, Defendants receive the proceeds of federally guaranteed student loans. Through student loans, a qualifying student borrows money from a financial institution, and the amount of money borrowed is guaranteed by a guaranty agency; the guaranty agency guarantees the lender from loss due to a borrower's default. The federal government then reimburses the guaranty agency for all or part of the amount of the default claims the guaranty agency must pay to a lender on the defaulted student loan.

97. Due to Defendants' false certifications as to eligibility to participate in Title IV, HEA programs, Defendants were able to receive federal funds in the form of Pell grants and federally guaranteed student loans that the United States, in many instances, ultimately will be forced to repay because of student defaults. Each of Defendants' requests for federal grants or guaranteed student loan money to which they were not entitled constituted a false claim to the United States.

98. Relator estimates that financial losses to the government due to Defendants' fraudulent conduct are in excess of $220 million.

COUNT I

Violations of the False Claims Act, 31 U.S.C. § 3729(a), prior to and after the amendments enacted on May 20, 2009

Misrepresentations As To Accreditation

99. Relator realleges and incorporates by reference the allegations of paragraphs 1-47 and paragraphs 94-98 of this Complaint.

100. This count sets forth claims for treble damages, civil penalties and forfeitures under the Federal False Claims Act, 31 U.S.C. §§ 3729-3732.

101. Through the knowing and intentional misrepresentations as to the accreditation of their MSN Nurse Practitioner and Accelerated RN to MSN nursing programs, Defendants and their agents and/or employees knowingly made false certifications and caused to be presented false and/or fraudulent claims, records and statements in order to obtain federal loans and grants for students enrolled at their campuses.

102. Under the False Claims Act, 31 U.S.C. § 3729(a), in effect prior to May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Government.

103. Under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended on May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim.

104. The United States, unaware of the falsity of the claims and in reliance on the accuracy of these claims and/or statements, approved, paid and participated in federal financial aid payments made by the Department of Education. Had the United States known that the certifications and claims presented by Defendants were false, payment would not have been authorized for such claims.

105. By reason of Defendants' false claims, the United States has been damaged, and continues to be damaged.

COUNT II

Violations of the False Claims Act, 31 U.S.C. § 3729(a), prior to and after the amendments enacted on May 20, 2009

Misrepresentations As To Job Placement

106. Relator realleges and incorporates by reference the allegations of paragraphs 1-41, paragraphs 48-54 and paragraphs 94-98 of this Complaint.

107. This count sets forth claims for treble damages, civil penalties and forfeitures under the Federal False Claims Act, 31 U.S.C. §§ 3729-3732.

108. Through the knowing and intentional misrepresentations as to their job placement statistics, Defendants and their agents and/or employees knowingly made false certifications and caused to be presented false and/or fraudulent claims, records and statements in order to obtain federal loans and grants for students enrolled at their campuses.

109. Under the False Claims Act, 31 U.S.C. § 3729(a), in effect prior to May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Government.

110. Under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended on May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim.

111. The United States, unaware of the falsity of the claims and in reliance on the accuracy of these claims and/or statements, approved, paid and participated in federal financial aid payments made by the Department of Education. Had the United States known that the certifications and claims presented by Defendants were false, payment would not have been authorized for such claims.

112. By reason of Defendants' false claims, the United States has been damaged, and continues to be damaged.

COUNT III

Violations of the False Claims Act, 31 U.S.C. § 3729(a), prior to and after the amendments enacted on May 20, 2009

Misrepresentations As To Cost

113. Relator realleges and incorporates by reference the allegations of paragraphs 1-41, paragraphs 55-60 and paragraphs 94-98 of this Complaint.

114. This count sets forth claims for treble damages, civil penalties and forfeitures under the Federal False Claims Act, 31 U.S.C. §§ 3729-3732.

115. Through the intentional and systemic misrepresentations as to the costs of

Defendants' educational programs, Defendants and their agents and/or employees knowingly made false certifications and caused to be presented false and/or fraudulent claims, records and statements in order to obtain federal loans and grants for students enrolled at their campuses.

116. Under the False Claims Act, 31 U.S.C. § 3729(a), in effect prior to May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Government.

117. Under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended on May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim.

118. The United States, unaware of the falsity of the claims and in reliance on the accuracy of these claims and/or statements, approved, paid and participated in federal financial aid payments made by the Department of Education. Had the United States known that the

certifications and claims presented by Defendants were false, payment would not have been authorized for such claims.

119. By reason of Defendants' false claims, the United States has been damaged, and continues to be damaged.

COUNT IV

Violations of the False Claims Act, 31 U.S.C. § 3729(a), prior to and after the amendments enacted on May 20, 2009

Failure To Adequately Track Student Progress

120. Relator realleges and incorporates by reference the allegations of paragraphs 1-24, paragraphs 61-72 and paragraphs 94-98 of this Complaint.

121. This count sets forth claims for treble damages, civil penalties and forfeitures under the Federal False Claims Act, 31 U.S.C. §§ 3729-3732.

122. Through the knowing and intentional failure to adequately track student progress at their institutions as required by federal regulations, Defendants and their agents and/or employees knowingly made false certifications and caused to be presented false and/or fraudulent claims, records and statements in order to obtain federal loans and grants for students enrolled at their campuses.

123. Under the False Claims Act, 31 U.S.C. § 3729(a), in effect prior to May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the

Armed Forces of the United States a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Government.

124. Under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended on May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim.

125. The United States, unaware of the falsity of the claims and in reliance on the accuracy of these claims and/or statements, approved, paid and participated in federal financial aid payments made by the Department of Education. Had the United States known that the certifications and claims presented by Defendants were false, payment would not have been authorized for such claims.

126. By reason of Defendants' false claims, the United States has been damaged, and continues to be damaged.

COUNT V

Violations of the False Claims Act, 31 U.S.C. § 3729(a), prior to and after the amendments enacted on May 20, 2009

Violations Of The Incentive Compensation Ban

127. Relator realleges and incorporates by reference the allegations of paragraphs 1-24 and paragraphs 73-98 of this Complaint.

128. This count sets forth claims for treble damages, civil penalties and forfeitures under the Federal False Claims Act, 31 U.S.C. §§ 3729-3732.

129. Through the knowing and intentional violations of the Higher Education Act's Incentive Compensation Ban, Defendants and their agents and/or employees knowingly made false certifications and caused to be presented false and/or fraudulent claims, records and statements in order to obtain federal loans and grants for students enrolled at their campuses.

130. Under the False Claims Act, 31 U.S.C. § 3729(a), in effect prior to May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the Government.

131. Under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended on May 20, 2009, Defendants have violated:

(a) 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; and/or

(b) 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim.

132. The United States, unaware of the falsity of the claims and in reliance on the accuracy of these claims and/or statements, approved, paid and participated in federal financial aid payments made by the Department of Education. Had the United States known that the certifications and claims presented by Defendants were false, payment would not have been authorized for such claims.

133. By reason of Defendants' false claims, the United States has been damaged, and continues to be damaged.

COUNT VI

Violation of the Reverse False Claims Act, 31 U.S.C. § 3729(a) prior to and after the amendments enacted on May 20, 2009

134. Relator realleges and incorporates by reference the allegations of paragraphs 1-47, paragraphs 61-72 and paragraphs 94-98 of this Complaint.

135. Through the acts described above, Defendants and their agents and employees intentionally and knowingly failed to report students who should have been dropped from Defendants' schools due to attendance violations and/or enrollment into programs falsely certified by Defendants in order to "conceal, avoid, or decrease" an obligation by Defendants to return federal funding in the form of Pell grants and federally guaranteed loans to the government.

136. Under the False Claims Act, 31 U.S.C. § 3729(a) in effect prior to May 20, 2009, Defendants have violated 31 U.S.C. § 3729(a)(7) by knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

137. Under the False Claims Act, 31 U.S.C. § 3729(a)(1) as amended on May 20, 2009, Defendants have violated 31 U.S.C. § 3729(a)(1)(G) by knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the Government.

138. Defendants' fraudulent concealment and intentional failure to report improperly enrolled students and students enrolled into programs falsely certified by Defendant schools in order to avoid refunding federal money in the form of Pell grants and federally guaranteed loans constitutes an unlawful avoidance of an obligation to pay money owed to the United States.

139. Defendants' unlawful conduct is continuing in nature and has caused the United States to suffer damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Relator requests that judgment be entered against Defendants, ordering that:

a. Defendants cease and desist from violating the Federal False Claims Act;

b. Defendants pay an amount equal to three times the amount of damages the United States has sustained because of Defendants' actions;

c. Defendants pay maximum civil penalties allowable to be imposed for each false

or fraudulent claim presented to the United States;

d. Plaintiff/Relator be awarded the maximum amount allowable pursuant to the Federal False Claims Act;

e. Plaintiff/Relator be awarded all costs of this action, including attorneys' fees , expenses, and costs; and

f. United States and Plaintiff/Relator be granted all such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Relator, on behalf of himself and the United States, hereby demands a trial by jury.

Dated this 8th day of February, 2012.

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