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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

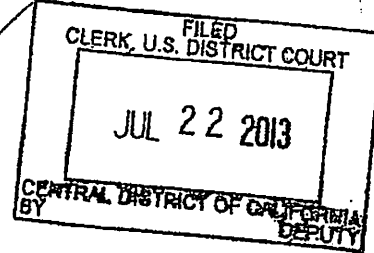
20 UNITED STATES OF AMERICA, ex
21 rel.

22 TERISA MERCER CARON,
23 VERONICA TREJO, PAIGE
24 STEVENS, HEATHER LUEDTKE,
25 TAMECA SHELDON, CINDY
26 JUAREZ,

27 QUI TAM PLAINTIFFS,

28 v.

B&H EDUCATION, INC., a Delaware
Corporation, d/b/a MARINELLO
SCHOOL OF BEAUTY; B&H
EDUCATION HOLDINGS, L.L.C., a
Delaware Limited Liability Company;
Dr. R. RASHED ELYAS, DR. NAGUI
ELYAS, MIKE BENVENUTI, COO,
MICHAEL FLECKER, CFO; ABRY
PARTNERS VI, L.P., an unknown entity;
ABRY INVESTMENT PARTNERSHIP,
L.P., an unknown entity; ABRY SENIOR
EQUITY II, L.P., an unknown entity;
UNITED BEAUTY ENTERPRISES,
INC., a California Corporation; SCOPE
BEAUTY ENTERPRISES, INC., a
California Corporation, TFC CREDIT
CORPORATION, a California
Corporation; and DOES 1 through 100,



PCASE NO. 13-05256-LGK
(AJWx)

FILED UNDER SEAL

COMPLAINT

JURY REQUESTED

COPY

COMPLAINT- JURY TRIAL DEMANDED

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inclusive,

DEFENDANTS.

1 Plaintiffs and Relators allege as follows:

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3 **I. INTRODUCTION**

4 1. This complaint is brought by Relators under the False Claims Act, 31
5 U.S.C. §§ 3729 *et seq.* Unlike many other qui tam actions against for-profit
6 secondary schools, this case involves substantial and compelling information
7 brought forward by the Relators and witnesses against the Defendants.

8 2. The Higher Education Act of 1965 (HEA), including Title IV, was
9 signed into law by then President Lyndon Johnson. The law was intended “to
10 strengthen the educational resources of our colleges and universities and to provide
11 financial assistance for students in postsecondary and higher education.”¹
12 Unfortunately, the Title IV program has since been the subject of excessive fraud,
13 waste, and abuse by unscrupulous charlatans who have put ill-gotten profits above
14 the public good.

15 3. Today, a new industry has emerged, the “Title IV business venture”
16 with “for profit” or “proprietary” schools beholden to its shareholders and owners,
17 instead of the student or American taxpayer, the intended beneficiaries.² A recent
18 Government Accountability Office (GAO) report uncovered this very problematic
19 relationship and its frequency for fraud.³ Relators bring this matter to stop the
20 rampant Title IV fraud and waste being perpetrated by Defendants below.

21 4. This complaint involves violations of the False Claims Act by B&H
22 EDUCATION, INC., a Delaware Corporation, d/b/a MARINELLO SCHOOL OF
23 BEAUTY (hereinafter “MSB”); B&H EDUCATION HOLDINGS, L.L.C., a
24 Delaware Limited Liability Company; DR. R. RASHAD ELYAS, Dr. NAGUI

25 ¹ Legislation: *The Higher Education Act of 1965 (Pub. L. No. 89-329).*

26 ² See: Gayland O. Hethcoat II, *For Profits Under Fire: The False Claims Act As A Regulatory Check On The For Profit Education Sector*, November 4, 2011, Loyola Consumer Law Review.

27 ³ U.S. Gov’t Accountability Office, GAO-10-948T, *For Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud And Engaged In Deceptive And Questionable Marketing Practices* n1. (2010) (All fifteen institutions had made deceptive statements re: accreditation, graduation, employment, and expected salaries), <http://www.gao.gov/new.items/d10948t.pdf>
28

1 ELYAS, MIKE BENVENUTI, COO, MICHAEL FLECKER, CFO; TFC CREDIT
2 CORPORATION, a California Corporation; (collectively Defendants). The
3 individual executives and or company owners are named herein, since Relators
4 have specific evidence identifying their illegal acts in this matter.⁴
5

6 II. OVERVIEW OF THE SCHEME

7 5. The violations of the False Claims Act (FCA) arise because
8 Defendants knowingly and materially engaged and continue to perpetrate in, as of
9 the date of this complaint, a comprehensive, nation-wide scheme designed to
10 defraud the United States through false claims, false statements, and false records.
11 Defendants, through their effort to maximize profits, regardless of legality or
12 student eligibility, have conspired, concealed, obstructed, manipulated, lied, and or
13 altered student information, records, actual reporting data, accounting, statistics,⁵
14 audits, and material documents in order to over-award and draw down the *maximum*
15 amount of Title IV funds for ineligible and or non-existent students. This pervasive
16 fraud scheme, pursuant to Relators testimony and documentation, was for the
17 purpose of maintaining Defendant eligibility in the Federal Student Aid programs
18 so to continue to reap profits from the Government and the students.

19 6. Physical evidence from Relators and witnesses will show:

- 20 • Manipulation and Falsification of student entrance exam and or
21 ability-to-benefit (ATB) tests. Manipulation and alteration of High
22 School Completion Programs (HSCP) and tampering with GED
23 testing at Parkridge Private School, a pre-arranged feeder testing
24 center, located in Long Beach, CA.

25 ⁴ Senior members of MSB directed efforts to keep ineligible students on the attendance rosters, falsifying clock-hour
26 time reports, directing and encouraging fraudulent activity, obstructing DOE audits, concealment of Student
27 Academic Reports, "cleaning up" school records prior to an audit, and paying cash bonuses and gifts in return for
28 keeping ineligible students on Title IV assistance.

⁵ Falsified statistics certified and provided to DOE, Auditors, Accreditation agencies, and State Education Bureaus
include; Falsified statistics that include: graduation rates, drop rates, loan default rates, licensure rates, and career
placement statistics.

- 1 • Falsification and manipulation of student rosters and altered
- 2 attendance records, student identification "swipe card" confiscation,
- 3 manipulation and duplication of student clock hours.
- 4 • Creation of a "ghost student" scheme where students who stop
- 5 attending school or simply never started school, remained on the
- 6 attendance rolls so Defendants can continue to draw student aid
- 7 fund monies.
- 8 • Falsification and manipulation of Student Academic Reports
- 9 (SAP) and or altered grades.
- 10 • Utilize through fraud, pre formulated, TFC/Marinello Hard-
- 11 Money Loans.
- 12 • Falsification and manipulation of the 90/10 rule – the 90/10 rule
- 13 is a requirement whereby the DOE mandates that each student who
- 14 is to receive federal aid must provide 10% of his/her personal funds
- 15 towards tuition.
- 16 • Creation of "fake students" whereby Defendants would pay the
- 17 tuition in one lump sum cash payment, or create "fake scholarships"
- 18 or "fake private grants," whereby the money was created to a "fake
- 19 student" who would attend class for a few days then drop. The cash
- 20 payment would then be credited to students who could not or did not
- 21 make the "90/10" payment. This would allow Defendants to then
- 22 "qualify" the student who did not make a cash payment, for federal
- 23 loan money which, of course, is paid directly to the school.
- 24 • Relators and witness testimony will show that graduation rates
- 25 and career placement data was falsely to keep the federal aid
- 26 maximized.
- 27
- 28

- 1 • Falsifying and or obstructing Department of Education (DOE)
- 2 program audits, concealment of accurate data to auditors and
- 3 accreditation officials.
- 4 • Falsification and concealment of the 14-day absence rule and
- 5 alteration of Leave of Absence (LOA) record.
- 6 • Computer manipulation of student file records through
- 7 Defendant's Point of Service (POS), Guest Vision, computer
- 8 programs: Vocado and Rafael Mercado (RGM) systems. (See:
- 9 Section IV (H) below. FAFSA fraud—FAO failed to properly
- 10 verify social security number of student against California
- 11 Identification Card before applying for Financial Aid.
- 12 • Defendants employed aggressive marketing, "hard sell" and
- 13 deceptive techniques in order to achieve double digit enrollment
- 14 numbers so that the Admissions Department could declare a "double
- 15 digit" month or make it into the "twenties club!" In order to achieve
- 16 these results, Admissions Representatives target underprivileged
- 17 areas in lower socioeconomic areas, and focus on students that have
- 18 not completed high school, with the only student requirement being
- 19 social security number. Once the school finds a student that fits their
- 20 "profile" they intimidate, harass, and pressure the prospective
- 21 student into enrolling—calling and harassing the prospective student
- 22 2-3 times per day until the student enrolls or changes his/her cell
- 23 phone number. MSB employs a scheme called SIR that Admissions
- 24 Representatives use to intimidate students into enrolling. MSB
- 25 refers to this program as its ability to "Gain Commitment." Further
- 26 MSB employs a "bait and switch" scheme whereby the school
- 27 represents to the student that he or she is enrolled into a certain
- 28

1 program that the school is not offering and then "switches" him/her
2 into a program that the school offers.

3 7. Relators estimate the fraud *exceeds* \$50,000,000.00 dollars over five
4 years, and continues to accrue. This amount does not include 31 U.S.C. §3729 (G)
5 civil penalties and treble damages.

6
7 **III. INTRODUCTION**

8 8. Plaintiffs and Relators bring this qui tam action on behalf of the United
9 States of America, the Department of Education ("DOE"), and the State of
10 California against Defendants (collectively "DEFENDANTS" and/or
11 "MARINELLO PARTIES" and/or "MARINELLO SCHOOL OF BEAUTY"
12 and/or "MSB") to recover damages and civil penalties, under the False Claims
13 Act, 31 U.S.C. §§ 3729-33 (FCA), and to recover damages and other monetary
14 relief under the common law and equitable theories of unjust enrichment and
15 payment by mistake. Defendants own and operate approximately sixty seven (67)
16 for-profit, proprietary schools, primarily in California, with several schools in
17 Oregon, Nevada, and Utah. The vast majority of its revenue is derived *directly*
18 from federal student aid programs.

19 9. This action arises from false statements and claims that Defendants
20 MARINELLO SCHOOL OF BEAUTY knowingly presented to, or caused to be
21 presented to, the United States and the United States Department of Education, in
22 violation of the FCA and common law.

23 10. Defendant knowingly presented and/or made, or caused to be
24 presented and/or made, the false claims and statements at issue, in order to
25 participate, and maintain participation at all relevant periods, in the
26 federal student aid programs authorized pursuant to Title IV of the Higher
27 Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA
28 programs). The Title IV, HEA programs, which are administered by the

1 Department of Education, provides students with financial aid in the form of,
2 among other things, Federal Pell Grants and loans guaranteed by the Federal
3 Government. From at least 2007 continually through the present, Defendants
4 knowingly submitted, or caused to be submitted, hundreds of false claims in order
5 to maximize Defendant profits in the following, but not limited to, comprehensive
6 schemes,: (a) FAFSA enrollment, (b) Falsification of entrance exams, (c)
7 Falsification of GEDs/high school diploma, and/or Ability To Benefit ("ATB")
8 fraud, (d) Falsification of attendance, leave of absences ("LOA") and or roster
9 manipulation, (e) Falsification of grades and or Student Academic Progress
10 ("SAP") reporting, (f) Front loading, (g) Failure to make refunds, (h) Ghost
11 students, (i) Leasing of eligibility, (j) Loan theft, forgeries, and or alteration of
12 documents, (k) Fraud, theft by school employees, (l) Default rate fraud, (m)
13 Falsification and manipulation of the 90/10 requirement, (n) Financial statement
14 falsification, (o) ATB fraud, (p) Falsified last date of attendance, and (q)
15 Obstruction of a federal audit, and or program review. This sophisticated scheme
16 was and continues to be directed, supervised and manipulated from the top down.
17 Defendant CEO, COO, and CFO sought out "seasoned" Title IV veterans from
18 competitor schools to assist in maintaining, concealing, manipulating, and
19 "maximizing" federal aid, directed from the corporate offices in Whittier and
20 Beverly Hills, California.

21 11. In order to be eligible to receive federal funding under Title IV,
22 MARINELLO SCHOOL OF BEAUTY were required to adhere to a variety of
23 regulations related to the operation of its for-profit, proprietary schools. *See,*
24 *e.g., 34 C.F.R. Parts 600, 668.* MARINELLO SCHOOL OF BEAUTY entered
25 into contractual agreements with the Department of Education, called Program
26 Participation Agreements (PPAs), in which Defendants specifically agreed to abide
27 by these regulations. Execution of these PPAs with the Department of Education
28 was a condition precedent to Defendants eligibility to receive federal funding under

1 Title IV of the Higher Education Act (HEA). Defendants also certified each time it
2 drew down federal grant monies that the funds were being expended in accordance
3 with the conditions of the applicable PPAs.

4 12. Among other things, MARINELLO SCHOOL OF BEAUTY was
5 required to maintain a license to operate in each state in which its campuses were
6 located and to maintain accreditation by an accrediting agency recognized by the
7 Secretary of Education for that purpose. MARINELLO SCHOOL OF BEAUTY
8 was further prohibited from making any false representations to
9 prospective students regarding, among other things, the employability of its
10 graduates upon graduation. Defendants agreed that it would comply with these and
11 other requirements in each PPA it executed.

12 13. Beginning in at least 2007 and continuing to the present, Defendants
13 engaged in a widespread scheme to defraud the United States, Department of
14 Education and the State of California in order to receive federal funding it would
15 not otherwise have been entitled to receive. Defendant's fraudulent conduct
16 involved at least twenty (20) of MARINELLO SCHOOL OF BEAUTY campuses,
17 including but not limited to the following campuses: Plaza del Sol (01), San
18 Bernardino (05), Reseda (06), Hemet (08), Las Vegas (11), Inglewood (12), San
19 Diego (14), City of Industry (16), Moreno Valley (18), Palmdale (19), El Cajon
20 (20), Ontario (22), Lomita (23), Whittier (25), San Mateo (28), San Francisco (29),
21 Sacramento (31), Victorville (44), Murrieta (47), and Bell (48), schools.

22 14. Defendants made false statements and concealed material information
23 from the Department of Education and State of California in order to ensure that it
24 would maintain its state license and/or continue to receive federal funding under
25 Title IV of the HEA. For example, regulations require that a proprietary school
26 maintain a minimum 60 percent placement rate to be eligible for licensure.
27 Defendants fabricated and or negligently reported (a) completion rates, (b)
28 placement rates, (c) and licensure rates of students from at least twenty campuses,

1 in order to make it appear as if Defendants placed substantially more MARINELLO
2 graduates in jobs, than Defendants actually did. MARINELLO SCHOOL OF
3 BEAUTY reported and certified as "true and correct" these false placement
4 statistics to the DOE. By falsifying its placement statistics, Defendants were able to
5 ensure that it maintained its state license. State licensure, in turn, is a requirement to
6 be eligible for federal funding under Title IV of the HEA.

7 15. Defendants also engaged in false advertising in an attempt to
8 induce students to enroll at its campuses, in violation of California regulations,
9 federal regulations implementing Title IV of the HEA, and its PPAs. For example,
10 Defendants used the fabricated placement statistics MARINELLO reported as a
11 tool to induce students to enroll at Campuses. MARINELLO SCHOOL OF
12 BEAUTY agents lied to prospective students at multiple Campuses about the
13 amounts of money they should expect to earn in Cosmetology, Barbering and
14 related programs after graduation from MARINELLO SCHOOL OF BEAUTY.
15 Defendants also enrolled multiple students into particular programs of beauty, at
16 hostile and/or substandard facilities, where students and faculty physically and
17 verbally fought with one another regularly. One example, includes the San
18 Bernardino Campus 05 where student's "swipe" or identification cards were
19 confiscated, and retained by Defendants in an ongoing effort to control, manipulate
20 attendance records, and or maintain Title IV eligibility. Another strategy, regularly
21 employed by Defendants was telling applicants who had previously dropped out of
22 MARINELLO SCHOOL OF BEAUTY that their current loan indebtedness to the
23 Federal Government would be forgiven if they *re-enrolled* at MARINELLO
24 SCHOOL OF BEAUTY, but Defendants had no intention of repaying the students'
25 federal loan indebtedness. Defendants false advertising to prospective applicants, in
26 violation of California regulations, federal regulations, and its PPAs, was designed
27 to induce students to enroll at MARINELLO SCHOOL OF BEAUTY who might
28 not otherwise have enrolled had they been told the truth by Defendants.

1 16. MARINELLO SCHOOL OF BEAUTY engaged in other fraudulent
2 conduct in an attempt to secure federal aid for students who, but for Defendants
3 conduct, would have been ineligible for assistance under Title IV of the HEA. For
4 instance, Defendants fabricated and or did not require, nor verify, high school
5 diplomas of prospective students at campuses 05, 44 and 18 in order to permit
6 unqualified students to enroll at MARINELLO SCHOOL OF BEAUTY.
7 Defendants then improperly received and retained Title IV assistance for those
8 unqualified students. Defendants also engaged in a variety of fraudulent actions
9 designed to ensure that prospective students passed an Ability-to-Benefit (ATB)
10 test - a then-existing alternative under federal law for students without a high school
11 diploma or its recognized equivalent to receive Title IV funding while enrolled at
12 Defendants schools. Defendant actions included: (1) using surrogate test takers to
13 sit for applicants; (2) improperly "coaching" test takers on the questions and
14 answers before the exam; and (3) using a proctor to administer the tests who was
15 not properly qualified and (4) provided answers to applicants and or students to the
16 questions. MSB also routinely altered grades and attendance records of students at
17 campuses (01), (05), (08), (44), (14) and (18) who were not meeting minimum
18 requirements. Defendants kept students on its attendance rolls and, as such,
19 federal financial aid recipient list - by extending graduation dates fraudulently.
20 Defendant employees were instructed to "pump up" financial aid records in order to
21 secure more federal funding for students than the students were eligible to receive.

22 17. Employees were encouraged, and directed through top management
23 through email and sales calls to maintain "BIG VOLUME" in students admissions,
24 calling for "aggressive appointment setting". A constant slogan was "PACK THE
25 FRONT END AND THEN BACKFILL FOR SUCCESS!"

26 18. Between 2010 and 2011, senior management offered "ONE MONTH
27 SALARY" for high completion statistics in Bell, Portland, San Diego, and Lomita
28 schools.

1 19 Defendants conduct was knowing and material to MARINELLO
2 SCHOOL OF BEAUTY continued eligibility to participate in the Title IV
3 programs. As a result of Defendant's fraudulent scheme and its false
4 representations of Title IV eligibility, Defendants have received millions of dollars
5 of Title IV financial aid that it otherwise would not have received but for its
6 conduct.

7
8 **IV. JURISDICTION AND VENUE**

9 20. This Court has subject matter jurisdiction over the United States'
10 claims brought under the False Claims Act, *31 U.S.C. §§ 3279, et seq.*, pursuant
11 to *31 U.S.C. §§ 3730 and 3732*. This Court has supplemental jurisdiction to
12 entertain the common law and equitable causes of action under *28 U.S.C. §*
13 *1367(a)*.

14 21. This Court has personal jurisdiction over Defendants pursuant to *31*
15 *U.S.C. § 3732(a)* because Defendants transacts business and is found in this district,
16 and acts proscribed by *31 U.S.C. § 3729* occurred in this district.

17 22. Venue is proper in this district pursuant to *31 U.S.C. § 3732(a)*, and
18 under *28 U.S.C. §§ 1391(b) and 1395(a)*, because Defendant is a California
19 corporation and owns and operates traditional campuses within this district.
20 Furthermore, certain of the acts that form the basis of this Complaint occurred in
21 this district.

22
23 **V. PARTIES**

24 **RELATORS:**

25 23. This is a qui tam action brought pursuant to the FCA by the various
26 Relators on behalf of the United States, and Department of Education.

27 24. Relator Terisa Mercer Caron (hereinafter, "Caron") is a citizen of the
28 United States of America, and is a resident of San Bernardino County, in the State

1 of California. She is an "original source" of this information within the meaning of
2 31 U.S.C. § 3730(e)(4)(B), but states that, to her knowledge, the information
3 contained herein concerning Defendant's alleged False Claims Act violations has
4 not been publicly disclosed. Caron worked for Defendant, as a Campus Director of
5 its Moreno Valley and Huntington Beach Campuses from March 2008 to April,
6 2012.

7 25. Relator Veronica Trejo (hereinafter, "Trejo") is a citizen of the United
8 States of America, and is a resident of Riverside County, in the State of California.
9 She is an "original source" of this information within the meaning of 31 U.S.C. §
10 3730(e)(4)(B), but states that, to her knowledge, the information contained herein
11 concerning Defendant's alleged False Claims Act violations has not been publicly
12 disclosed. Trejo was employed by Defendant as its Financial Aid Officer for its
13 Moreno Valley campus during 2010 – 2012.

14 26. Relator Paige Stevens (hereinafter "Stevens") is a citizen of the United
15 States of America, and is a resident of San Bernardino County, in the State of
16 California. She is an "original source" of this information within the meaning of 31
17 U.S.C. § 3730(e)(4)(B), but states that, to her knowledge, the information contained
18 herein concerning Defendant's alleged False Claims Act violations has not been
19 publicly disclosed. Stevens is employed by Defendant as a Cosmetology
20 Instructor in its Victorville campus, from May 2011 through to the present.

21 27. Relator Heather Luedtke (hereinafter, "Luedtke") is a citizen of the
22 United States of America, and is a resident of San Diego County, in the State of
23 California. She is an "original source" of this information within the meaning of 31
24 U.S.C. § 3730(e)(4)(B), but states that, to her knowledge, the information contained
25 herein concerning Defendant's alleged False Claims Act violations has not been
26 publicly disclosed. Luedtke is employed by Defendant in its San Diego campus as
27 a Career Services Manager from April 2012 through to the present.

1 28. Relator, Tameca Sheldon (hereinafter "Sheldon") is a citizen of the
2 United States of America, and is a resident of San Bernardino County, in the State
3 of California. She is an "original source" of this information within the meaning of
4 *31 U.S.C. § 3730(e)(4)(B)*, but states that, to her knowledge, the information
5 contained herein concerning Defendant's alleged False Claims Act violations has
6 not been publicly disclosed. Sheldon was employed by Defendant in its
7 Victorville campus as an Instructor from January 2011 through to February, 2012.

8 29. Relator, Cindy Juarez (hereinafter "Juarez") is a citizen of the United
9 States of America, and is a resident of Riverside County, in the State of California.
10 She is an "original source" of this information within the meaning of *31 U.S.C. §*
11 *3730(e)(4)(B)*, but states that, to her knowledge, the information contained herein
12 concerning Defendant's alleged False Claims Act violations has not been publicly
13 disclosed. She was employed by Defendants as its Registrar and Financial Aid
14 Officer for its Hemet campus during July 2009 - Aug 2012. In this position,
15 JUAREZ was responsible for daily POS and Guest Vision and RGM reporting of
16 raw attendance data, swipe card management, issuance, and clock hour compliance.
17 JUAREZ was responsible for LOA forms, 14-day rule compliance, Add/Drop
18 reporting of actual data to corporate offices, and student population registry.
19 JUAREZ was responsible for High School, GED and or ATB verification and
20 testing, enrollment agreements, Student Academic Progress (SAP) and student
21 retention policies.

22 23 DEFENDANTS

24 30. PLAINTIFFS are informed and believe and on that basis allege that, at
25 all relevant times, B&H EDUCATION, INC., d/b/a MARINELLO SCHOOL OF
26 BEAUTY was, and is:

- 27 a. A corporation, partnership, association, joint venture or other
28 fictitious entity;

1 b. doing business as, and also known as, MARINELLO SCHOOL
2 OF BEAUTY; and

3 c. doing business and otherwise present in the County of Los
4 Angeles, State of California, and this Judicial District..

5 31. PLAINTIFFS are informed and believe and on that basis allege that, at
6 all relevant times, B&H EDUCATION HOLDINGS, L.L.C., d/b/a MARINELLO
7 SCHOOL OF BEAUTY was, and is:

8 a. A corporation, partnership, association, joint venture or other
9 fictitious entity;

10 b. doing business as, and also known as, MARINELLO SCHOOL
11 OF BEAUTY; and

12 c. doing business and otherwise present in the County of Los
13 Angeles, State of California, and this Judicial District.

14 32. PLAINTIFFS are informed and believe and on that basis allege that, at
15 all relevant times, ABRY PARTNERS VI, L.P was, and is:

16 a. A corporation, partnership, association, joint venture or other
17 fictitious entity;

18 b. doing business as, and also known as, MARINELLO SCHOOL
19 OF BEAUTY; and

20 c. doing business and otherwise present in the County of Los
21 Angeles, State of California, and this Judicial District.

22 33. PLAINTIFFS are informed and believe and on that basis allege that, at
23 all relevant times, ABRY INVESTMENT PARTNERSHIP, L.P.; was, and is:

24 a. A corporation, partnership, association, joint venture or other
25 fictitious entity;

26 b. doing business as, and also known as, MARINELLO SCHOOL
27 OF BEAUTY; and

28 c. doing business and otherwise present in the County of Los

1 Angeles, State of California, and this Judicial District.

2 34. PLAINTIFFS are informed and believe and on that basis allege that, at
3 all relevant times, ABRY SENIOR EQUITY II, L.P. was, and is:

- 4 a. A corporation, partnership, association, joint venture or other
5 fictitious entity;
6 b. doing business as, and also known as, MARINELLO SCHOOL
7 OF BEAUTY; and
8 c. doing business and otherwise present in the County of Los
9 Angeles, State of California, and this Judicial District.

10 35. PLAINTIFFS are informed and believe and on that basis allege that, at
11 all relevant times, UNITED BEAUTY ENTERPRISES, INC., was, and is:

- 12 a. A corporation, partnership, association, joint venture or other
13 fictitious entity;
14 b. doing business as, and also known as, MARINELLO SCHOOL
15 OF BEAUTY; and
16 c. doing business and otherwise present in the County of Los
17 Angeles, State of California, and this Judicial District.

18 36. PLAINTIFFS are informed and believe and on that basis allege that, at
19 all relevant times, SCOPE BEAUTY ENTERPRISES, INC.; was, and is:

- 20 a. A corporation, partnership, association, joint venture or other
21 fictitious entity;
22 b. doing business as, and also known as, MARINELLO SCHOOL
23 OF BEAUTY; and
24 c. doing business and otherwise present in the County of Los
25 Angeles, State of California, and this Judicial District.

26 37. PLAINTIFFS are informed and believe and on that basis allege that, at
27 all relevant times Dr. R. RASHED ELYAS, was the CEO of B&H EDUCATION,
28 INC., d/b/a MARINELLO SCHOOL OF BEAUTY

1 38. PLAINTIFFS are informed and believe and on that basis allege that, at
2 all relevant times Dr. NAGUI ELYAS was the President and COO of B&H
3 EDUCATION, INC., d/b/a MARINELLO SCHOOL OF BEAUTY;

4 39. PLAINTIFFS are informed and believe and on that basis allege that, at
5 all relevant times MICHAEL BENVENUTI, was the COO of Marinello School of
6 Beauty

7 40. PLAINTIFFS are informed and believe and on that basis allege that, at
8 all relevant times MICHAEL FLECKER, was the CFO of Marinello School of
9 Beauty;

10 41. PLAINTIFFS are informed and believe and on that basis allege that, at
11 all relevant times TFC CREDIT CORPORATION, a California Corporation,
12 controlled by Marinello School of Beauty, which provided private student loans to
13 Marinello School of Beauty students.

14 42. PLAINTIFFS are informed and believe and on that basis allege that, at
15 all relevant times, each of DEFENDANTS, in the alternative, participated in,
16 directed, authorized, ratified, controlled, aided and abetted, and/or otherwise caused
17 or contributed to the acts and omissions of the other DEFENDANTS herein alleged
18 and PLAINTIFFS' damages as herein alleged.

19 43. PLAINTIFFS are currently unaware of the true names and capacities
20 of DOES 1 through 100, inclusive, and therefore sue such DEFENDANTS by these
21 fictitious names. PLAINTIFFS are informed and believe and on that basis allege
22 that, at all relevant times, each of the DOES committed, permitted, participated in,
23 enabled, aided and abetted or otherwise caused or contributed to the wrongful acts
24 and omissions of DEFENDANTS herein alleged, or are otherwise legally
25 responsible in some manner for the unlawful acts and omissions of DEFENDANTS
26 herein alleged. PLAINTIFFS will seek to amend this complaint to allege the true
27 names and capacities of DOES when ascertained.
28

VI. STATUTORY BACKGROUND

A. The Federal False Claims Act (FAC)

44. The False Claims Act, as amended by the Fraud Enforcement and Recovery Act of 2009 (FERA), *Pub. L. 111-21, § 4(f), 123 Stat. 1617, 1625 (2009)*, provides in pertinent part that a person is liable to the United States government for three times the amount of damages the government sustains because of the act of that person, plus a civil penalty, for each instance in which the person “knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval.” *31 U.S.C. § 3729(a)(1)(A) (2009)*. Prior to the FERA amendments, the FCA provided that a person is liable to the United States government for each instance in which the person “knowingly presents, or causes to be presented, to an officer or employee of the United States Government...[a] false or fraudulent claim for payment or approval.” *31 U.S.C. § 3729(a)(1) (2006)*.

45. The FCA defines the term “claim” to mean “any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that (i) is presented to an officer, employee, or agent of the United States; or (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be drawn down or used on the Government's behalf or to advance a Government program or interest, and if the United States Government (i) provides or has provided any portion of the money or property requested or demanded; or (ii) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded....” *31 U.S.C. § 3729(b)(2)(A) (2009)*.

46. As amended by FERA, the FCA also makes a person liable to the United States government for three times the amount of damages which the government sustains because of the act of that person, plus a civil penalty, for each instance in which the person “knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.” *31 U.S.C.*

1 § 3729(a)(1)(B) (2009). The FCA, prior to the FERA amendments, provided that a
2 person is liable to the United States government for each instance in which the
3 person “knowingly makes, uses, or causes to be made or used, a false record or
4 statement to get a false or fraudulent claim paid or approved by the
5 Government.” 31 U.S.C. § 3729(a)(2) (2006).

6 47. The FCA defines the terms “knowing” and “knowingly” to mean that a
7 person, with respect to information: (1) “has actual knowledge of the information;”
8 (2) “acts in deliberate ignorance of the truth or falsity of the information;” or (3)
9 “acts in reckless disregard of the truth or falsity of the information.” 31 U.S.C.
10 § 3729(b)(1)(A) (2009). The FCA further provides that “no proof of specific intent
11 to defraud” is required. 31 U.S.C. § 3729(b) (2006); 31 U.S.C. § 3729(b)(1)(B)
12 (2009).

13 48. The United States alleges that, from at least 2007 through the present,
14 MARINELLO SCHOOL OF BEAUTY violated the FCA by “knowingly”
15 submitting and/or causing the submission of false claims for payment to the
16 Department of Education in the form of Free Applications for
17 Federal Student Aid (FAFSA) and the resulting drawdowns of Title IV funds
18 related to each approved FAFSA. These claims for payment were false because
19 Defendants: (1) fraudulently maintained its state licensure (and, in turn, its
20 eligibility to receive Title IV funding) by making false statements and
21 misrepresentations to the State and DOE about some or all of its (i) completion
22 rates, (ii) placement rates, and (iii) licensure rates; among other things; (2) made
23 knowingly false statements and promises in its PPAs, and in certifications
24 accompanying its drawdowns of federal aid, that it was complying with, and would
25 continue to comply with, applicable laws and regulations governing the award of
26 Title IV funding; and/or (3) made, or caused to be made, false representations in
27 grant and loan applications that the students seeking federal financial aid were
28 eligible to receive such aid.

1 **B. Programs under Title IV of the Higher Education Act of 1965**

2 49. Under Title IV of the Higher Education Act of 1965, 20 U.S.C. §§
3 1070 *et seq.*, Congress established various student loan and grant programs,
4 including but not limited to, the Federal Pell Grant Program (Pell), the Federal
5 Family Education Loan Program (FFELP), and the Federal Direct Loan Program
6 (FDLP) in order to financially assist eligible students in obtaining a post-secondary
7 education.

8 **1. Federal Regulations Governing Title IV Funding**

9 50. There are a variety of federal statutes and regulations that govern the
10 award of Title IV, HEA program funds. First, only "eligible" students are permitted
11 to receive federal financial aid under Title IV of the HEA. In order to qualify as an
12 eligible student, a student must meet the requirements of 34 C.F.R. § 668.32.
13 Among other things, the student must be enrolled or accepted for enrollment in an
14 eligible program at an eligible institution; must have a high school diploma or its
15 recognized equivalent, unless an enumerated exception applies (such as, during the
16 relevant time period, having "obtained a passing score specified by the Secretary on
17 an independently administered test"); and must be maintaining satisfactory
18 academic progress in his or her course of study according to the school's published
19 standards, and in accordance with federal guidelines. 34 C.F.R. §§ 668.32, 668.34.

20 51. An institution may only retain Title IV funds that it earns. When
21 a student withdraws without completing a program of instruction, an institution
22 must calculate the amount of Title IV funds that it can retain and refund to the
23 Department of Education and the student any excess funds that it has not earned. 34
24 C.F.R. § 668.22.

25 52. Institutions wishing to participate in Title IV, HEA programs also must
26 comply with other federal requirements. A school must be accredited and be
27 licensed to operate in each state in which it is doing business in order to be eligible
28

1 to receive Title IV funding. *20 U.S.C. § 1001; 34 C.F.R. § 600.5(a)(4), (6).*

2 53. Federal regulations also prohibit institutions from making substantial
3 misrepresentations to prospective applicants about, among other things, the nature
4 of the institution's educational programs or the employability of its graduates. 34
5 C.F.R. Part 668, Subpart F. During the relevant time period, a misrepresentation
6 consisted of "any false, erroneous or misleading statement" that an institution made
7 to a student or prospective student, and a substantial misrepresentation consisted of
8 "any misrepresentation on which the person to whom it was made could reasonably
9 be expected to rely, or has reasonably relied, to that person's detriment." *34 C.F.R.*
10 *§ 668.71 (2007-2010).*

11 54. Misrepresentations that were explicitly prohibited by state and federal
12 regulation include, among other things, misrepresentations regarding the
13 employability of an eligible institution's graduates, *34 C.F.R. § 668.74*, and
14 misrepresentations concerning "the nature of an institution's financial charges," *34*
15 *C.F.R. § 668.72.*

16 55. The Department of Education has the authority to revoke or terminate
17 an institution's PPA if it is found to have engaged in substantial
18 misrepresentation. *34 C.F.R. §§ 668.13(d); 668.86(a)(1)(ii)(A).*

19 2. Program Participation Agreements

20 56. All post-secondary educational institutions must enter into PPAs with
21 the Department of Education in order to become eligible to receive payment of Title
22 IV funds under programs such as Pell, FFELP, or FDLP, or to have
23 its students receive Title IV funding. *20 U.S.C. § 1094; 34 C.F.R. § 668.14.*

24 57. "A program participation agreement conditions the initial and
25 continued participation of an eligible institution in any Title IV, HEA program
26 upon compliance with the provisions of this part, the individual program
27 regulations, and any additional conditions specified in the program participation
28

1 agreement that the Secretary requires the institution to meet." 34 C.F.R. §
2 668.14(a)(1).

3 58. By signing a PPA, an educational institution agrees that its
4 participation in Title IV, HEA programs, including receiving payment of Title IV
5 funds, is "subject to the terms and conditions set forth in [the PPA]."

6 59. Each PPA expressly conditions a school's initial and continuing
7 eligibility to receive payment under Title IV, HEA programs on compliance with
8 specific statutory requirements that include the proper determination
9 of student eligibility for these funds, and compliance with all institutional eligibility
10 requirements, such as those set forth in paragraphs 28-33 above.

11 **C. Claims for Payment under Title IV Programs**

12 60. After a school becomes eligible to receive Title IV funding by entering
13 into a PPA, claims for payment of those funds can be made in various ways. Under
14 Pell and FDLP, for example, students submit requests for funding directly to the
15 Department of Education, or to the Department of Education with the assistance of
16 schools. Under the FFELP, students and schools jointly submit requests to private
17 lenders for loans that are then guaranteed by state agencies and are, in turn, insured
18 by the Department of Education and paid in the event of a default.

19 61. With respect to all Title IV, HEA programs, the disbursement of
20 federal funds rests on required statements of eligibility. Schools must make such
21 statements for payment requests to be considered.

22 62. For all Title IV, HEA programs, students who are interested in
23 receiving federal student aid must complete a FAFSA.

24 **1. Title IV Grant Programs**

25 63. Under the Pell Grant program, which provides federal funds to assist
26 post-secondary school students in financial need, 20 U.S.C. § 1070a; 34 C.F.R. §
27 690.1, the student initiates the process by submitting a FAFSA to the Department of
28

1 Education to have her expected family contribution ("EFC") calculated in order to
2 receive an accurate amount of Pell funds. 34 C.F.R. § 690.12(a). The student either
3 sends the FAFSA directly to the Department of Education or provides it to a school
4 for the school to transmit to the Department of Education on the student's behalf. 34
5 C.F.R. § 690.12(b).

6 64. The Department of Education sends the student's application
7 information and EFC to the student on a Student Aid Report ("SAR") and sends
8 each school the student has designated an Institutional Student Information Record
9 ("ISIR") for that student. 34 C.F.R. §690.13.

10 65. The school uses the above-described information, including the EFC,
11 to calculate the student's eligibility for all aid and to assemble a
12 "financial aid award package" for the student borrower. The financial aid package
13 may include Pell Grants, FDLP Direct Loans, or Campus-Based Aid (which, in
14 turn, includes Federal Supplemental Educational Opportunity Grants, Federal
15 Work-Study, and Federal Perkins Loans), as well as other scholarships or aid for
16 which the student may be eligible.

17 66. The student can accept all or part of the financial aid award package.

18 67. If the student accepts a Pell Grant, an FDLP Direct Loan (for which
19 the Department of Education is both lender and guarantor), or both a Pell Grant and
20 a Direct Loan, the school creates an electronic "origination" record that the school
21 submits to a Department of Education computerized database called "COD," the
22 Common Origination and Disbursement system. The origination record
23 includes student demographic data, the award or payment period, the award
24 amount, and disbursement dates and amounts. The COD database, in turn, links the
25 information in the origination record to another Department of Education database,
26 called "CPS," the Central Processing System, which compares the information in
27 the origination record to the information on the student's SAR and ISIR.

28 68. Provided that the information submitted by the school is consistent

1 with the information possessed by the Department of Education, the Department of
2 Education makes funds available for the school to electronically draw down from a
3 computerized system known as "G5."

4 69. Schools must electronically certify in G5 prior to drawing down the
5 funds that "by processing this payment request...the funds are being expended
6 within three business days of receipt for the purpose and condition[s] of the
7 [Program Participation] agreement."

8 70. In addition to the Pell Grants themselves, the Department of Education
9 also pays to the school an annual administrative cost allowance of \$5.00 for
10 each student who receives a Pell Grant, to be used to pay the costs of administering
11 the Pell Grant and other Title IV, HEA federal student aid programs. *20 U.S.C. §*
12 *1096; 34 C.F.R. § 690.10.*

13 2. Title IV Loan Programs

14 71. Under the FFELP, which includes subsidized and un-subsidized
15 Stafford Loans, a guaranty agency makes the eventual claim for payment by the
16 United States. No new loans were made under FFELP after July 1, 2010. Prior to
17 that date, the school and student submitted an application to a private lender for a
18 loan on behalf of the student. If a student defaults in repaying a loan under the
19 FFELP program, a state or private guaranty agency reimburses the lender or
20 subsequent holder of the loan for the outstanding balance and takes assignment of
21 the loan for collection action. *34 C.F.R. § 682.401(b)(14)*. If the guaranty agency is
22 unable to collect from the borrower, the Department of Education reimburses the
23 guaranty agency for the loss it incurred in honoring the defaulted claims, *230*
24 *U.S.C. § 1078(c)(1)(A)*, and the Department of Education may, in its discretion,
25 take assignment of the loan. *20 U.S.C. § 1078(c)(8)*. In this way, the government is
26 ultimately called upon to satisfy claims for payment.

27 72. In order to participate in the FFELP or any other Title IV loan
28

1 program, as opposed to a grant program, a student completes a Master Promissory
2 Note (MPN) and submits the MPN to the educational institution. The institution, in
3 turn, completes a "School Certification," in which it certifies the accuracy of the
4 information it provided to the Department of Education and the student's eligibility
5 for the loan. 34 C.F.R. § 682.102. While the MPN itself is valid for ten years, the
6 educational institution determines the student's ongoing eligibility for aid and
7 completes the School Certification annually.

8 73. Under the FFELP, the educational institution submits the MPN to the
9 lender. Upon approval by the lender, the lender obtains a loan guarantee from a
10 guarantee agency. 34 C.F.R. § 682.102. The loan is made in reliance upon the
11 accuracy of the information provided by the educational institution.

12 74. The lender transfers the FFELP funds directly into the educational
13 institution's account. Upon receiving the FFELP funds, the educational institution
14 credits a student's account for education-related expenses, such as tuition, fees,
15 books, and supplies.

16 75. For subsidized Stafford Loans, the government pays the interest on
17 the student's behalf during the time the student is enrolled in school on at least a
18 half-time basis, and during the student's grace period before repayment
19 commences. 34 C.F.R. § 682.102(d)(2).

20 76. In the event of default on the loan, the Department pays to the
21 guarantee agency all or part of the unpaid principal and accrued interest, as well as
22 a variety of administrative costs. 34 C.F.R. § 682.404.

23 **D. Defendant Participation in Title IV. HEA Programs**

24 **1. Program Participation Agreements**

25 77. MARINELLO SCHOOL OF BEAUTY signs and submits PPAs to the
26 Department of Education on behalf of all of Defendant educational institutions
27 throughout the United States. Defendants have executed PPAs for approximately
28

1 sixty seven of its campuses. Below is an example of a PPA(s) signed by "R. Rashed
2 Elyas CEO", of MARINELLO SCHOOL OF BEAUTY and the Department of
3 Education from 2008 through the present.

4 • Program Participation Agreement:

- 5 ○ Effective date of Approval: April 30, 2008
- 6 ○ Signed by R. Rashed Elyas, CEO April 29, 2008
- 7 ○ Approval Expiration Date: December 31, 2013
- 8 ○ Reapplication Date: September 30, 2013
- 9 ○ Name of Institution: MARINELLO SCHOOL OF BEAUTY
- 10 ○ Address of Institution: 24741 Alessandro Boulevard, Moreno
11 Valley, CA. 92553-3941
- 12 ○ OPE ID Number: 02221300
- 13 ○ DUNS Number: 792317778
- 14 ○ Taxpayer ID Number: 562419687

15 78. The PPAs signed by MSB state that "[t]he execution of this Agreement
16 by the Institution and the Secretary is a prerequisite to the Institution's initial or
17 continued participation in any Title IV, HEA Program."

18 79. By signing the PPAs, MARINELLO SCHOOL OF BEAUTY certified
19 that it would comply with Title IV of the HEA's requirements. All of the PPAs
20 signed by Defendants state: "[t]he Institution understands and agrees that it is
21 subject to and will comply with the program statutes and implementing regulations
22 for institutional eligibility as set forth in 34 CFR Part 600 and for each Title IV,
23 HEA program in which it participates, as well as the general provisions set forth in
24 Part F and Part G of Title IV of the HEA, and the Student Assistance General
25 Provisions regulations set forth in 34 C.F.R. Part 668."

26 80. MARINELLO SCHOOL OF BEAUTY also certified in each PPA that
27 "[i]t will comply with all statutory provisions of or applicable to Title IV of the
28 HEA, all applicable regulatory provisions prescribed under that statutory authority,

1 and all applicable special arrangements, agreements, and limitations entered into
2 under the authority of statutes applicable to Title IV of the HEA....”

3 81. Defendants also agreed in the PPAs to meet all state licensure and
4 accreditation requirements: “[ATI] will meet the requirements established pursuant
5 to Part H of Title IV of the HEA by the Secretary, State [authorizing bodies], and
6 nationally recognized accrediting agencies.”

7 82. Each of the PPAs signed by MARINELLO SCHOOL OF BEAUTY
8 further state: “In the case of an institution that advertises job placement rates as a
9 means of attracting students to enroll in the institution, it will make available to
10 prospective students, at or before the time that those students apply for enrollment-

11 (i) The most recent available data concerning employment
12 statistics, graduation statistics, and any other information necessary to
13 substantiate the truthfulness of the advertisements; and

14 (ii) Relevant state licensing requirements of the State in which the
15 institution is located for any job for which an educational program offered by
16 the institution is designed to prepare those prospective students.”

17 83. All of the PPAs during the relevant periods identified above were
18 signed by MARINELLO SCHOOL OF BEAUTY CEO, Dr. R. RASHED ELYAS,
19 Dr. NAGUI ELYAS, MIKE BENVENUTI, COO, and or MICHEAL FLECKER,
20 CFO, all senior officers of MARINELLO SCHOOL OF BEAUTY.

21 84. As described in greater detail below, MARINELLO SCHOOL OF
22 BEAUTY knowingly made false statements, certifications, and claims regarding its
23 compliance with Department of Education regulations and the terms of its PPAs.
24 Beginning in at least 2007, MARINELLO SCHOOL OF BEAUTY was
25 fraudulently maintaining its licensure with California (and, hence, its eligibility to
26 participate in Title IV programs) by, among other things, fabricating placement
27 rates. Defendant was also violating federal regulations by repeatedly lying
28 to students about, among other things, the opportunities they would have as

1 MARINELLO graduates to induce them to enroll at MARINELLO SCHOOL OF
2 BEAUTY. In order to secure greater federal funding, MARINELLO also enrolled
3 and maintained enrollment for students who were not eligible, and then concealed
4 their ineligibility by fabricating documents.

5 85. MARINELLO SCHOOL OF BEAUTY nevertheless executed the
6 PPAs and agreed that it would comply with applicable federal regulations and the
7 terms of the PPAs. Defendants then drew down federal grant funds and again stated
8 that the funds were being used in accordance with the conditions of the PPAs.
9 Defendant's statements were false when made, and caused the Department of
10 Education to pay various claims under Title IV, HEA programs that it would not
11 have paid but for Defendants fraud.

12 2. Federal Funds Received from the Department of Education

13 86. MARINELLO SCHOOL OF BEAUTY has received substantial sums
14 in Title IV funding from the Department of Education as a result of its fraudulent
15 conduct.

16 VII. DEFENDANTS FRAUDULENT SCHEME

17 A. Background

18 87. MSB is a privately owned, for-profit post-secondary school. Named
19 after the founder of Modern Cosmetology, Giovanni Marinello; B & H Education
20 Inc. acquired Marinello in 2004. MSB has since grown to approximately 67
21 schools in 7 States. The school is nationally accredited by the National Accrediting
22 Commission of Career Arts and Sciences (NACCAS).

23 88. MSB is required to provide Clock Hour Programs and offers the
24 following programs: Cosmetology (1600 Clock Hours), Manicurist (400 Clock
25 Hours), Esthetician (600 Clock Hours), Advanced Facial & Body Treatments (600
26 Clock Hours), Clinical Esthetician (900 Clock Hours), Master Spa Therapist (1200
27 Clock Hours), Teacher Training (600 Clock Hours), Massage Therapy (720 Clock
28 Hours), Massage Therapy (600 Clock Hours), CIDESCO (1500 Clock Hours),

1 Barbering (1500 Clock Hours), Professional Makeup Artistry (720 Clock Hours),
2 Make-Up Artist – Bridal (100 Clock Hours), Make-Up Artist Media (100 Clock
3 Hours).

4 89. MSB is approved to operate in California by the Bureau for Private
5 Postsecondary Education (BPPE). The California Board of Barbering and
6 Cosmetology (BBC) sets minimum standards for MSB and issues licenses to
7 graduates upon passing the Board of Barbering and Cosmetology licensing
8 examinations. Accordingly to the MSB 2011-2012 Catalog, "All Marinello
9 students who successfully complete a course of study will be awarded an
10 appropriate diploma...". In order for a graduate of MSB to ultimately receive its
11 license from the BBC, MSB must provide a Proof of Training (POT) certificate to
12 the State in favor of the student.

13 90. During the relevant time period, MSB had a corporate office and team
14 located in Whittier & Beverly Hills, California that was responsible for the overall
15 management of MSB various campuses and its various campuses. The corporate
16 team was responsible for setting overall corporate goals and strategies, and
17 overseeing the operations at each of MSB campuses. MSB campuses were managed
18 at the individual level by a School Director, as well as directors of admissions,
19 career services, and financial aid, among others. Each campus also had a number of
20 other employees who focus on running the operations of the specific campuses,
21 including Admissions Representatives and Career Services employees.

22 91. MSB management employed a corporate strategy focused on increased
23 admissions and profits above all else. MSB's main priority was increasing its
24 enrollment numbers and, hence, its revenues. In furtherance of that strategy, MSB
25 employed an army of Admissions Representatives and put intense pressure on them
26 to enroll as many students as possible.

27 92. Admissions Representatives went to great lengths to recruit bodies.
28 Recruitment was aggressively performed on radio, television, fashion shows,

1 Paparazzi events, Teen Health Fairs, VA and or Military events, March of Dimes,
2 foster care homes, McDonalds, AA meetings, homeless and or food shelters,
3 Autism organization events, and junior high schools. They would
4 induce students to enroll at MSB with promises of gift cards, pizza parties,
5 coupons, enrollment fee waivers, high double or triple digit salaries upon
6 graduation and direct career placement assistance. MSB Admissions
7 Representatives were told to make their sales goals no matter what. If they did not
8 meet MSB aggressive goals, they were told they would be terminated. Once
9 enrolled into MSB, the staff was instructed to reduce the amount of drops, be
10 flexible with LOAs, and re-enroll any drops. Instructors were counseled to
11 "average out grades" and or fabricate student academic scores.

12 93. To meet those sales goals, Admissions Representatives would
13 enroll students regardless of whether those students were qualified for enrollment or
14 whether MSB was the right fit for them. As discussed below, they would fabricate
15 proofs of education to enroll unqualified students. They also engaged in program
16 manipulation whereby Admissions Representatives would attempt to
17 convince students not to enroll in the program they were interested in, but instead to
18 enroll in the longer 1500 or 1600 clock hour programs in an effort to maximize
19 federal aid or over award Title IV funding. MSB's primary focus was filling slots,
20 not on finding the right educational opportunity for each prospective student. In
21 some cases, as explained below, Admissions Representatives would
22 enroll students in programs even though they knew the student would not be able to
23 find employment after graduation due to, for example, a criminal record, multiple
24 attempts on the entrance exam, or failure of ATB criteria. Once
25 enrolled, students would be pressured to attend at least minimally, the classes
26 during Level 1, at which point MSB drew down Title IV funds on their behalf.
27 94. MSB Admissions Representatives would lure students to MSB with
28 attractive actors and actresses on radio and TV advertisements with promises of

1 first-rate beauty training and job placement upon graduation. But when they
2 arrived, the reality was far different. To generate as much revenue as possible, MSB
3 would often oversell classes, resulting in overcrowding. Equipment was out of date
4 and the quality of instruction was often poor, with Instructor turnover very high.
5 Many of its facilities were also poorly-maintained, outdated, lacked security and
6 unsafe. For example, Campus's 22, 05, 44, and 18 experienced car thefts, break
7 ins, illegal drug use, fights, and even prostitution. Safety concerns at several of
8 these campuses required police coverage during school hours. Students at MSB
9 were also sometimes violent towards each other, instructors, and staff, which
10 prevented an educational environment conducive to learning.

11 95. Students found that their employment prospects after graduation from
12 MSB were not as promised. Despite spending thousands of dollars for training in a
13 new career field, many found that they were not any better off after graduating from
14 MSB than they were prior to enrollment. Many students in this position incurred
15 substantial oppressive debt, school penalties, billing inconsistencies, delayed or lost
16 cost of living loans and federal grant funds held. MSB students were intentionally
17 unable to obtain their State Board licensing, because MSB withheld their Proof of
18 Training certificates until either cash was paid, or students acquiesced to private
19 18% interest promissory notes. Students were constantly harassed by MSB internal
20 collection agency, which would commonly loose or leave students aging accounts
21 on the books to accrue additional penalties. Students were not awarded diplomas
22 after completing the required number of clock hours

23 96. MSB Career Services Department was often unhelpful and/or
24 unsuccessful in placing students in their fields after graduation. Students were thus
25 unable to find quality jobs and often returned to jobs similar to those they held prior
26 to enrolling at MSB. To keep up the appearance of a successful school, however,
27 MSB would falsify placement statistics and then continue to lie to students about
28 the opportunities available to them as a MSB graduate.

1 97. MSB focus on putting profits ahead of students' needs and quality of
2 education resulted in MSB engaging in a variety of fraudulent practices designed to
3 extract as much federal funding as possible from the Department of Education and
4 from students. MSB conduct, as explained below, violated the Federal False Claims
5 Act and resulted in payment by mistake and in MSB being unjustly enriched.

6 98. MSB from at least 2007 continually through the present, Defendants
7 knowingly submitted, or caused to be submitted hundreds of false claims and false
8 statements in order to maximize MSB profits derived almost exclusively from
9 federal student aid monies.

10 99. MSB engaged in, encouraged, counseled, and coerced, directly and or
11 indirectly, to fraudulently report or conceal actual data to DOE program auditors.
12 MSB manipulated student accounting, internal audit reports, spreadsheets,
13 formulas, rosters, SAP reports, grading, LOA sheets, POS logs, Guest Vision
14 reporting, RGM and Vocado documents, 90/10 reports, inserted all cash ghost
15 students, cash flow reports, Placement statistics, and Add/Drop reports.

16 100. Key reports needed for NACASS certification, DOE compliance, and
17 PPA eligibility, which contained data inputted at the campus level was modified
18 advantageously *after*, and at the corporate level, overridden, stricken, and or altered
19 by Defendants untruthfully in order to comply with Title IV, maximize profit, and
20 obstruct the DOE program audit. Attendance reports by Defendants own
21 admissions, were irreconcilable and fraudulent. Defendants further physically
22 altered, and or forged, and concealed key documents, including but not limited to:
23 Last Date of Attendance logs, LOA sheets and or LOA reports, SAP reports, and or
24 90/10 reports in order to conceal and obstruct a DOE program audit in 2012.

25 101. In several Inland Empire campuses including campuses 05, 44, 08,
26 student "swipe cards" were confiscated, never provided, or given out - then retained
27 on a large ring, or card catalog styled box near the POS/Guest Vision system in
28 order to control and manipulate attendance records. Current enrollees, LOAs, and

1 dropped students cards were all comingled and used in the POS system with
2 voluminous discrepancies.

3 **B. Defendants Falsified Entrance Exams, GEDs, high school**
4 **diploma, and/or Ability To Benefit (ATB) tests.**

5 102. MSB engaged in other fraudulent conduct in an attempt to secure
6 federal aid for students who, but for Defendants conduct, would have been
7 ineligible for assistance under Title IV of the HEA. For instance, Defendants
8 fabricated and or did not require, nor verify, high school diplomas of
9 prospective students at campuses 05, 44 and 18 in order to permit
10 unqualified students to enroll at MSB. Defendants then improperly received and
11 retained Title IV assistance for those unqualified students.

12 103. Defendants also engaged in a variety of fraudulent actions designed to
13 ensure that prospective students passed an Ability-to-Benefit (ATB) test - a then-
14 existing alternative under federal law for students without a high school diploma or
15 its recognized equivalent to receive Title IV funding while enrolled at Defendants
16 schools. MSB would utilize a questionable "grandfathering" system pervasively
17 for ATB students who may have transferred or enrolled at an earlier secondary
18 school.

19 104. Defendant actions included: (1) using surrogate test takers to sit for
20 applicants; (2) improperly "coaching" test takers on the questions and answers
21 before the exam; and (3) using a proctor to administer the tests who was not
22 properly qualified and (4) provided answers to applicants and or students to the
23 questions.

24 105. Defendants also routinely altered grades and attendance records
25 of students at campuses 01, 05, 08, 44, 14 and 18 who were not meeting minimum
26 requirements. Defendants kept students on its attendance rolls and, as such,
27 federal financial aid recipient list - by extending graduation dates fraudulently.
28 MSB employees were instructed to "pump up" financial aid records in order to

1 secure more federal funding for students than the students were eligible to receive.

2 **C. Defendant Made Material Misrepresentations to the DOE by**
3 **Falsifying Student Attendance Rosters, Fabricating Leave of**
4 **Absences, Add/Drops, and Re-enrollment Records.**

5 106. During 2007 to the present, student attendance records were falsified
6 in handwritten rosters, the POS/Guest Vision programs and or the RGM system.
7 Enrollees, regardless of physical school presence, and or after dropping from
8 program were invariably placed in the LOA column, LDA was altered, and or a
9 swipe card was used momentarily to "reset" the 14 days. This was done without
10 proper verification, and or manually edited or altered in the POS and RGM systems
11 even though the student was not physically present. Defendants had the ability to
12 alter or manually override the POS, Guest Vision, and or RGM systems. Swipe
13 cards were kept locked up behind the counter, or with the Registrar in a locked
14 room. These swipe cards kept were from dropped, active, and LOA labeled
15 students in a card catalog style box, instead of - on the person of the actual student.
16 No separation methodology was employed for these comingled student cards.
17 Students, after 14 consecutive days of no shows, were deliberately instructed to be
18 left on the roster, or told to "put attendance on", and or placed into LOA status for
19 the sole purpose of "tolling" the financial aid calendar in order to collect more
20 federal student aid, manipulate Add/Drop statistics, tally up school penalties, and
21 manipulate statistics. This benevolent scheme came with rewards. MSB
22 employees received *cash bonuses* or attractive *Visa gift cards* all provided by CEO
23 Dr. N. ELYAS. In order to maximize profits, LOAs were converted to re-
24 enrollment status and severe pressure was applied to employees to get students back
25 in.

26 107. Students from campus's 05, 44, and 14, after multiple attempts,
27 requested copies of financial aid awards, and or accounting, but were told by the
28 FAO, Director, and or Registrar that the requested information was not available.

The FAOs, Directors, and or Registrars at these campuses were instructed by Defendants to "not give out corporate phone number to students". This delay and tolling tactic were companywide techniques in an effort to isolate the problem at the local level. An example from campus 44 of students and their manipulation dates are set forth below. The students initials are set forth as Relators fear that these students will be retaliated against once their identity is disclosed. Upon request by the Court the students' names will be revealed.

**Victorville Campus 44 Altered
Roster**

Date of Manipulation	Student	Date of Manipulation	Student	Date of manipulation	Student
3/5/2012	JW, TM,	10/3/2011	PH, MW	8/8/2011	VA, CS
4/2/2012	MP	10/17/2012	TR	5/14/2012	MB
4/16/2012	AD	10/31/2012		5/28/2012	MW
			DH, SL, LM, DM, MS, SM		
4/30/2012	MF, MP	5/30/2011		6/11/2012	MW
2/20/2012	JW, AE, MF, BH,	6/27/2011	VA	6/25/2012	DR
9/5/2011	HN	7/11/2011	VA	7/23/2012	CC, CO, LV
9/19/2011	WH	7/25/2011	VA	8/6/2012	CC, MG
Date of Manipulation	Student	Date of Manipulation	Student		
			AL, LN, AT		
8/20/2012	GM, SS	11/26/2012			
9/3/2012	NP				
9/17/2012	AH				

1 10/1/2012 CG,
2 JM,AS
3 ED
4 10/15/2012 (LOA
5 but
6 dropped)
7 10/29/2012 MG,
8

9 108. Campus 14 defrauded the DOE by refusing to drop students after 14
10 days, and or intentionally leaving the students on the rosters even when they were
11 not physically present or had already dropped from the program, in an effort to
12 draw down additional federal aid and frequently keep their Add/Drop statistics
13 favorable. Instead of dropping the students accordingly, Defendant manipulated the
14 LDA and LOA files without proper documentation. The Registrar in Campus 14
15 actually typed the student's backup documentation, fabricating the dates and
16 signatures on the LOA. On another occasion, in student GP's file, the Directors
17 name was forged. Student discrepancies include:
18

19 San Diego Campus 14

Attendance Discrepancy	Student Name
8/4/2012	RP
9/18/2012	IVF
8/3/2012	SM
6/1/2012	CC
6/20/2012	LD
6/26/2012	KS
7/27/2012	RE
9/12/2012	TB
9/29/2012	LM
7/6/2012	DT
8/29/2012	GC

1 109. Additionally, students SD, RE, EJ, JP, RP, and YS were not correctly
2 dropped from the Grad/Drop report. Another internal audit revealed the following
3 30 students with total attendance hours not matching the RGM system: SL, SC, IE,
4 JG, VDMJ, NP, JP, ER, JR, MR, IFV, CN, AMA, CC, BD, BD, MH, LH, JI, MJ,
5 BM, QM, DN, RR, KS, JS, JT, WZ, KV, LH, KM, and CM.

6
7 **D. Defendant Falsified, Forged, and or Altered Grades and**
8 **Student Academic Progress Reports.**

9 110. An example of falsification of grades, originated in Campus 44, where
10 Instructors Bridget Short, Paige Stevens, Tameca Sheldon, and Britany Jarmon
11 were instructed by Denise Holloway, Francesca Michaels and or Joan Yourstone
12 between 2010 and 2012, to go back retroactively, and fabricate, and or alter Student
13 Academic Reports for each of their students in an effort to lie and defraud the
14 accreditation agency NACASS and DOE. Specifically, Britany Jarmon was
15 instructed by Registrar Francesca Michaels and Financial Aid Officer ("FAO") CA
16 to manually "average out" her student's grades who fell below the 70% requirement
17 in order to keep them in the program, and pull the maximum amount of financial
18 aid and school profit, approximately \$25,000.00 dollars for Cosmetology students,
19 including beauty kits and average penalty fees.

20 111. Campus 14 contained forged, altered LOA documents, where dates,
21 and actual student names were manipulate to comply with DOE audit.

22 112. Once these students were fed through the program for over \$20,000.00
23 dollars each, many were charged oppressive "penalty fees" at \$11 dollars per hour
24 for mistakes or accounting errors created by Defendant scheme. Defendants
25 utilized this penalty program and other financing activities, which would have
26 otherwise been deemed illegal under the HEA, through its agent, TFC Credit
27 Corporation, which consistently charged an annual percentage rate (APR) of 18%.
28 The interest rate for these, pre-formulated, promissory notes were never less than

1 18% percent, and never individually underwritten for risk. Instead, the entire
2 processing of the loan was handled directly by MSB in favor of TFC. Because
3 these penalties have a natural tendency to exponentially increase over time,
4 hundreds of purported "graduates" were unable to sit for the state licensure exam,
5 because of financial insolvency, and Defendant subsequently withheld required
6 documents needed to actually sit for the state exams.

7 **E. Defendants Knowingly Misled And Defrauded DOE By**
8 **Waiving Registration Fees, Manipulating the 90/10**
9 **requirement, And Utilizing Ghost Students.**

10 113. Several campuses, between 2007 and through the present, in an effort
11 to induce as many students to sign up for Defendant programs and maximize Title
12 IV funds, actively waived and did not require students to pay the 10% cash
13 requirement and or a registration fee.

14 114. On or around November, 2011 Relator Caron received a call directly
15 from DR. NAGUI ELYAS, a rare call for a School Director to receive a call from
16 the CEO. DR. ELYAS informed Caron that she would be receiving a "new cash
17 student" in Moreno Valley (Riverside County) who received a scholarship through
18 Dr. E's church in Los Angeles. A check in the approximate amount of \$27,000.00
19 was received and deposited into the Moreno Valley Wells Fargo Bank branch, in
20 favor of student HN. Student HN showed up on or around December 2011 and was
21 in school for a total of two days and disappeared, never to be seen again by Campus
22 18 Instructors.

23 115. During the add drop reporting, Caron was instructed by her supervisor
24 Garo Ghazarian to "put attendance on HN" instead of dropping the student. When
25 Caron refused, she was reprimanded and told the order was directly from the CEO,
26 and she could lose her job for disobeying.

27 116. From 2007 through to the present, Defendants repeatedly failed to
28 properly comply with the 90/10 Title IV requirements. The rule provides that 10%

1 of the tuition must come directly from the student. An example of this failure is
2 outlined in Defendants, 90/10 summary report including schools Anaheim 46;
3 Bakersfield 48; Fresno 49; Huntington Beach 30; Murrieta 47; Napa 51; and San
4 Rafael 50. The summary report indicates for 1/1/2011 through 1/1/2012 the total
5 amount in student account amounted to: \$6,945,413, yet the ten percent component
6 is less than 5%. In an effort to increase the ten (10%) requirement, MSB owners
7 would make personal loans directly to the affected campus in the form of cash
8 concealed as scholarships or through surrogate agents. Subsequent to these events,
9 MSB owners would incorporate as different entities in order to maintain and
10 operate bank accounts and secure collateral.

11 117. One example is Lil' Arts Inc. where Campus 14 employees were listed
12 as "Board of Directors" and passed Resolutions maintaining a corporate bank
13 account at Bank of America and to "ratify" an SBA loan of \$215,000 and separate
14 shareholder loans of \$90,000.00 to pay for the "monthly bills".

15 **F. MSB Misled the Department of Education by Falsifying**
16 **Placement Statistics**

17 118. MSB engaged in a widespread scheme to mislead the Department of
18 Education by falsely representing the number of graduates of its school who were
19 placed in jobs in their field of study after graduation.

20 119. The requirement for proprietary schools is to place at least 60 percent
21 of their graduates in jobs in their field of study in order to be eligible for licensure.
22 To ensure it met that requirement, MSB knowingly fabricated the placement
23 statistics it reported to NACASS, BPPE, BBC and the DOE for Campuses 05, 44,
24 18, 01, 12, and 14. For at least the years 2007 through 2012, it then certified,
25 falsely, that the information it was providing to the agencies on the placement of its
26 graduates was correct. MSB engaged in this fraudulent scheme in order to maintain
27 its licensing and, hence, its ability to draw down federal financial aid.

28 120. MSB was required to report its placement statistics for each of its

1 programs at Campuses 05, 44, 18, 01, 12, and 14 on an annual basis. In accordance
2 with that requirement, MSB submitted its purportedly accurate placement figures
3 its annual reports and fact sheets and certified them as being accurate.

4 121. MSB artificially inflated the placement rates to make it appear as if it
5 had placed substantially more graduates at jobs in their fields of study than it
6 actually did. MSB accomplished this artificial inflation through a variety of
7 methods.

8 122. One method that MSB Career Services employees used to inflate MSB
9 placement numbers was to create fake business cards for MSB graduates they could
10 not place. Career Services employees would create the business cards online and
11 place them in the students' files. The students would then be recorded as self-
12 employed on MSB reports to the agency. For example, a former Career Services
13 Coordinator at Campus 05 and 18 was aware of several students in the Massage
14 Therapy program who had business cards created for them before they had taken or
15 passed the licensure exam. When the Career Services Coordinator raised this
16 concern to the then Director of Career Services for these Campuses, she was told
17 that this was part of the program and that the business cards could be placed in
18 the students' Career Placement files and the students counted as "placed."

19 123. Other members of management at MSB were aware of the business
20 card scam. Several employees involved in creating the fake business cards were
21 taught how to do so by MSB Regional Director of Career Placement, Sonia Rafael.
22 Another former Career Services employee Sherry Booth complained to Campus
23 Director and then to MSB Vice-President Garo Ghazarian about the practice of
24 creating fake business cards. When she received no response, she called the
25 Whittier Director of Human Resources, but was disregarded.

26 124. The following are examples of students that had fake
27 business cards created so they could be listed as self-employed:

28 125. Cosmetology, Esthetician, and Spa Therapist students: BD, JC, CC,

1 JC, JC, SC, RE, CF, RF, AG, LG, KH, MJ, JJ, WJ, DK, RL, IM, RM, FM, MM,
2 JR, JR;

3 126. Another scheme used by MSB to artificially inflate the placement
4 figures it reported to the DOE was to improperly claim students as placed in their
5 fields if they could find any tangential relationship between the student's job and his
6 or her field of study. Several students who graduated in Cosmetology and worked
7 as cashiers were improperly counted as placed in their field of study because they
8 worked with inside a salon. For example, one employee counted as "placed" a Spa
9 Therapist graduate who worked at AM/PM. This employee claims she was directed
10 to do so by GG.

11 127. Another student with a 100 Clock Hour completion as a Make Up
12 Artist, was counted as placed in her field while working at McDonalds near
13 Campus 18.

14 128. MSB also employed graduates for a day or so past graduation at MSB,
15 at the front counter swiping students in and out, and then improperly counted them
16 as placed in their fields. For example, graduate AM was one such example.

17 129. Another method used by MSB career services employees to inflate
18 placement rates was to create false companies and then fraudulently claim
19 that students had found employment there.

20 130. Audits completed for MSB confirmed that the placement rates MSB
21 was reporting were not accurate. In 2009 through 2012, MSD hired an independent
22 accountant to audit MSB placement figures for the time period 2009 through 2010.
23 The findings of the third party accountant's review included hundreds of
24 inconsistencies with actual data and data reported to the DOE. In certain instances,
25 as in Campus 14, less than 20% actually were legitimately placed.

26 131. MSB fabrication of placement statistics resulted in MSB receiving
27 federal financial assistance that it otherwise would not have been entitled to receive.
28 By falsifying its placement rates, MSB was able to ensure that it met licensure

1 requirements, DOE compliance, and that MSB maintain a sixty percent placement
2 rate. State licensure and accreditation in turn, is a requirement to be eligible for
3 federal funding under Title IV of the HEA. MSB's PPAs explicitly state that MSB
4 is required to maintain its state license in order to be eligible for federal funding.
5 Falsification of placement statistics was thus material to the DOE's decision-
6 making process regarding licensing and resulted in MSB drawing down federal
7 funding which it otherwise would not have been eligible to receive but for its
8 fraudulent conduct.

9 **G. MSB Caused the Department of Education to**
10 **Award Financial Aid to Ineligible Students and Fabricated**
11 **Documents to Conceal Their Ineligibility**

12 132. In order receive funding under Title IV of the HEA, federal law
13 requires that a prospective student at ATI have a valid high school diploma or its
14 recognized equivalent, or, during the relevant time period, be able to pass an ATB
15 test. Federal law also states that only a student maintaining satisfactory academic
16 progress in his or her course of study according to the school's published standards,
17 and in accordance with federal guidelines, is eligible for financial assistance under
18 Title IV of the HEA. By signing its PPAs, MSB agreed it would comply with these
19 regulations.

20 133. MSB engaged in various fraudulent schemes in order to ensure that the
21 Department of Education awarded Title IV funding to students who were not
22 qualified to receive such federal funds. MSB engaged in these schemes so that it
23 could increase its enrollment numbers and receive federal financial aid on behalf of
24 those students, regardless of whether the students were actually benefitting from
25 MSB instruction. MSB then fabricated documents to cover up its fraudulent
26 practices. MSB conduct caused the Department of Education to award federal
27 funding to students who would not otherwise have been eligible to receive such
28 funding.

1 134. MSB regularly engaged in falsifying high school diplomas in order to
2 award Title IV funds in violation of federal regulations. For example, MSB
3 fabricated a number of Campus 05, 14, and 23 diplomas.

4 135. Relators are aware of at least 23 students who had their proofs of
5 education fabricated at MSB. Those students were enrolled at Campus 05, 44, 08,
6 14, and 19 and MSB drew down federal funding on their behalf.

7 136. Several Admissions Representatives, including TLM at Campus 14
8 and Campus 23 participated in fabricating entrance documents.

9 137. MSB also engaged in fraudulent conduct in connection with the
10 administration of its ATB test, in order to award Title IV funds to
11 unqualified students without a valid high school diploma. It allowed students who
12 failed an ATB test, and did not have any alternative eligibility qualifications, to
13 receive Title IV funds, in violation of federal regulations.

14 138. At Campus 05, and 18 surrogate test takers were allowed to take the
15 ATB exam for others. Relators witnessed this occurring and complained to Garo
16 Ghazarian. One proctor allowed a wife to take the ATB exam for her husband.

17 139. MSB also employed a close relative of one of the senior officials who
18 was inserted into problem campuses to make sure ATB examinees were fabricated.
19 Several other nepotistic relationships at MSB were noted.

20 140. MSB also assisted an ATB proctor who had been decertified by
21 Wonderlic, Inc., the test publisher of MSB's ATB test, in becoming certified under
22 another name and allowed him to proctor ATB tests for prospective students.
23 Wonderlic had determined in 2009 that there were certain anomalies in testing
24 results, which indicated that the tests had not been properly administered.
25 Wonderlic thus decertified him in July 2009.

26 141. MSB engaged in various fraudulent conduct in order to ensure
27 that students not benefitting from instruction at MSB maintained their enrollment
28 and, hence, their eligibility for federal financial aid. Pursuant to MSB attendance

1 policy, students who missed 14 consecutive days or more than 20 percent of their
2 classes were required to be dropped. MSB however, would
3 change student attendance records to avoid dropping students and losing
4 federal aid.

5 142. According to at least one MSB Career Services employee, if
6 a student was approaching the 20 percent absence mark, MSB would attempt to get
7 the student to come in for "makeup" time or place on "probation period", even after
8 the 14 days lapsed.

9 143. MSB would then falsify POS/Guest Vision time sheets, or scribble
10 over, to make it appear as if the student "made up" more time than he or she
11 actually did. For example, students would sit in makeup time for about ten minutes
12 and then sign forms indicating that they had made up an hour of class time. MSB
13 would also give students makeup credit for time spent in their actual assigned
14 classes, thus giving them credit for two classes when they actually only attended
15 one.

16 144. One student at Campus 14, DB who did not have a valid high school
17 diploma or its recognized equivalent, and had not passed an ATB test, had missed
18 over 14 days, left on LOA for more than 45 days, was able to re-enroll, then left
19 again, should have had some of the Title IV money returned to the Department of
20 Education because he did not have a valid high school diploma or its equivalent.
21 However, DB did receive and retain federal financial aid, and he has since defaulted
22 on his student loans.

23 145. MSB engaged in other fraudulent conduct in order to ensure
24 that students maintained their enrollment at MSB (and, hence their eligibility for
25 federal aid), regardless of whether the students were eligible or benefitting from
26 MSB instruction.

27 146. Directors and other staff held "scrub meetings" and pressured
28 instructors to falsify attendance sheets in order to meet enrollment and retention

1 numbers as well as generally prevent students from dropping out of MSB.

2 147. Directors and other staff altered or falsified grade reports in order to
3 prevent students from being dropped from classes. Even when drops finally
4 occurred, those drops took place weeks or months after a drop was appropriate. At
5 Campus 44 and 14 this was pervasive.

6 148. MSB Education Department would also delay graduation dates for
7 some students so that they could extend the window of time for which MSB could
8 collect financial aid for them. The MSB Registrar at Campus 44, 23, and 14 would
9 change student graduation dates to make it appear as if it had taken
10 the student much longer to graduate than it actually did. In the meantime, MSB
11 would draw down additional financial aid for those students.

12 MSB financial aid employees also engaged in a variety of fraudulent practices that
13 resulted in students receiving more federal aid than they were entitled to receive.

14 For example, MSB employees, as directed by MSB management, including
15 Regional VP – Garo Ghazarian, and CEO:

- 16 a. coached financial aid applicants to list themselves as
17 “independent” rather than “dependent” regarding income tax
18 status;
- 19 b. counseled students to falsely list relatives' children as applicants'
20 dependents in order to increase applicants' eligibility
21 for financial aid;
- 22 c. improperly retained applicants' FAFSA PIN numbers so that
23 MSB employees could edit and alter FAFSA applications; and
- 24 d. encouraged fraudulent FAFSA submissions omitting applicants'
25 spouses' tax returns in order to increase the amount of available
26 federal student aid available for applicants.

27 149. Management at MSB condoned and encouraged this fraudulent
28 conduct. For example, a Manager of Admissions at Campus 10 became aware that

1 an Admissions Representative, had, among other things, coached a student on how
2 to appear to be an independent student for financial aid purposes (even though he
3 should have been listed as a dependent student)

4 150. Through its conduct above, MSB caused students to submit
5 applications for federal financial aid that contained false statements, including false
6 statements regarding the student's eligibility for federal aid and/or
7 the student's financial situation. Those false statements were material to the
8 Department of Education's decision to award federal aid to those students. MSB
9 also falsely certified, in its PPAs and each time it drew down federal grant monies,
10 that it was complying with federal regulations governing the eligibility and award
11 of Title IV funding under the HEA. MSB false statements and fraudulent conduct
12 resulted in MSB receiving federal aid that it would not otherwise have been entitled
13 to receive but for its fraud.

14 15 **VIII. THE SUBMISSION OF FALSE CLAIMS**

16 151. Every request for a federal grant or federally guaranteed loan made on
17 behalf of a student at least twenty (20) of MARINELLO SCHOOL OF BEAUTY
18 campuses, including but not limited to the following campuses: Plaza del Sol (01),
19 San Bernardino (05), Reseda (06), Hemet (08), Las Vegas (11), Inglewood (12),
20 San Diego (14), City of Industry (16), Moreno Valley (18), Palmdale (19), El Cajon
21 (20), Ontario (22), Lomita (23), Whittier (25), San Mateo (28), San Francisco (29),
22 Sacramento (31), Victorville (44), Murrieta (47), and Bell (48), schools constitutes
23 a separate false claim. The following examples of student financial aid packages,
24 each of which included a false secondary education credential in the student's file,
25 illustrate MSB false claims:

26 152. MSB student received a financial aid package consisting of

27 153. Each of the grant awards listed and described above and each
28 government repayment of loan interest or defaulted loan principal was caused by

1 MSB fraudulent maintenance of its state licensure, its false statements and promises
2 in its PPAs that it would comply with applicable laws and regulations governing the
3 award of federal financial aid, and/or the false representations in each grant and
4 loan application that the student seeking federal government aid was eligible to
5 receive Title IV funding under the HEA. MSB conduct was knowing and material
6 to the Department of Education's willingness to award federal financial aid to
7 MSB students. Each request for payment thus constitutes a false claim under the
8 False Claims Act.

9 154. The examples above are illustrative of the many false claims presented
10 by, or caused to be presented by, MSB for federal financial assistance under Title
11 IV of the HEA.

12 13 **IX. CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION**

15 **Violations of the False Claims Act: False or Fraudulent Claims**

16 *(31 U.S.C. § 3729(a)(1)(A) (2009), formerly 31 U.S.C. § 3729(a)(1)(2006))*

17 155. Plaintiffs reallege and incorporate by reference the allegations in
18 Paragraphs 1-154 above as though fully set forth herein.

19 156. MSB knowingly presented, or caused to be presented, to an officer or
20 employee of the United States government, false or fraudulent claims for payment
21 or approval, in violation of the False Claims Act, *31 U.S.C. § 3729(a)(1) (2009)*,
22 formerly *31 U.S.C. § 3729(a)(1)(2006)*, specifically, the claims for student loan and
23 Pell Grant payments under the Title IV student financial assistance programs.

24 157. Because of the Defendant's acts, the United States sustained damages
25 in an amount to be determined at trial and, therefore, is entitled to treble damages
26 under the False Claims Act, plus civil penalties of not less than \$5,500 and up to
27 \$11,000 for each violation.

1 **SECOND CAUSE OF ACTION**

2 **Violation of the False Claims Act: False Statements**

3 *(31 U.S.C. § 3729(a)(1)(B) (2009), formerly 31 U.S.C. § 3729(a)(2)(2006))*

4 158. Plaintiffs reallege and incorporate by reference the allegations in
5 Paragraphs 1-157 above as though fully set forth herein.

6 159. MSB knowingly made, used, or caused to be made or used, a false
7 record or statement material to a false or fraudulent claim, and/or to get the United
8 States to pay or approve false or fraudulent claims, in violation of the False Claims
9 Act, *31 U.S.C. § 3729(a)(1)(B) (2009), formerly 31 U.S.C. § 3729(a)(2)(2006)*.

10 160. Because of the Defendant's acts, the United States sustained damages
11 in an amount to be determined at trial and, therefore, is entitled to treble damages
12 under the False Claims Act, plus civil penalties of not less than \$5,500 and up to
13 \$11,000 for each violation.

14 **THIRD CAUSE OF ACTION**

15 **Payment by Mistake**

16 161. Plaintiffs reallege and incorporate by reference the allegations in
17 Paragraphs 1-160 above as though fully set forth herein.

18 162. The allegations within this Complaint establish at a minimum, that the
19 Department of Education paid Title IV funds to Marinello School of Beauty under
20 the mistake that MSB was in fact eligible and properly certified as being in
21 compliance with all federal and state requirements to make them eligible to receive
22 Title IV, HEA program funds.

23 163. By reason of these false certifications the United States mistakenly
24 paid MSB all of the Title IV, HEA program funds that it received at all of its
25 schools throughout the United States.

26 **FOURTH CAUSE OF ACTION**

27 **Unjust Enrichment**

28 164. Plaintiffs reallege and incorporate by reference the allegations in

1 Paragraphs 1-163 above as though fully set forth herein.

2 165. The allegation within this Complaint establish at a minimum that the
3 Department of Education paid Title IV funds to MSB which MSB was not entitled,
4 since it falsely certified it was in compliance with all state and federal requirements
5 when it was not. MSB has therefore been unjustly enriched at the expense of the
6 United States.

7 166. By reason of these false certifications and improper and inaccurate
8 claims and statement made to the United States, MSB has been unjustly enriched by
9 the amount of all of the Title IV, HEA program funds that it received at all of its
10 schools.

11 X. PRAYER FOR RELIEF

12 Wherefore, Plaintiffs request the following relief as to all Causes of Action:

13 1. Judgment in favor of the United States for an amount of damages,
14 trebled as required by law, pursuant to *31 U.S.C. § 3729(a)*, with civil penalties of
15 not less than \$5,500 and up to \$11,000 for each violation, plus such civil penalties
16 as are required by law, together with all such further relief as may be just and
17 proper;

18 2. Award to Relators, as the Qui Tam plaintiffs, of the maximum amount
19 allowed pursuant to *31 U.S.C. § 3730. (d)* of the Federal False Claims Act on the
20 Unites States' recovery;

21 3. Award to Relators of all reasonable expenses which the Court finds to
22 have been necessarily incurred, plus reasonable attorney's fees and costs;

23 4. Award Punitive damages on all causes of action, to the extent
24 allowable by law;

25 5. Award Compensatory damages as to all causes of action allowable by
26 law;

1 6. All prejudgment and post-judgment interest to which the United States
2 is entitled to

3 7. Such other relief as this Court may deem just and proper, together with
4 interest and costs of this action.

5
6 THE RELATORS DEMAND A JURY TRIAL AS TO ALL ISSUES SO
7 TRIALBLE

8
9
10 Dated: July 18, 2013

SKAPIK LAW GROUP

11
12
13 By:

Geralyn Skapik
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Attorneys for Relators/Plaintiffs.

JURY DEMAND

PLAINTIFFS hereby demand trial by jury.

Dated: July 18, 2013

SKAPIK LAW GROUP

By: Geraldyn Skapik
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