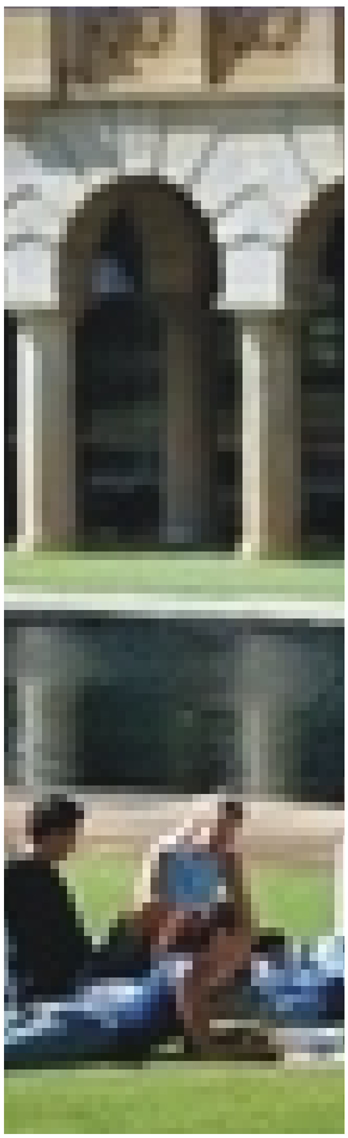
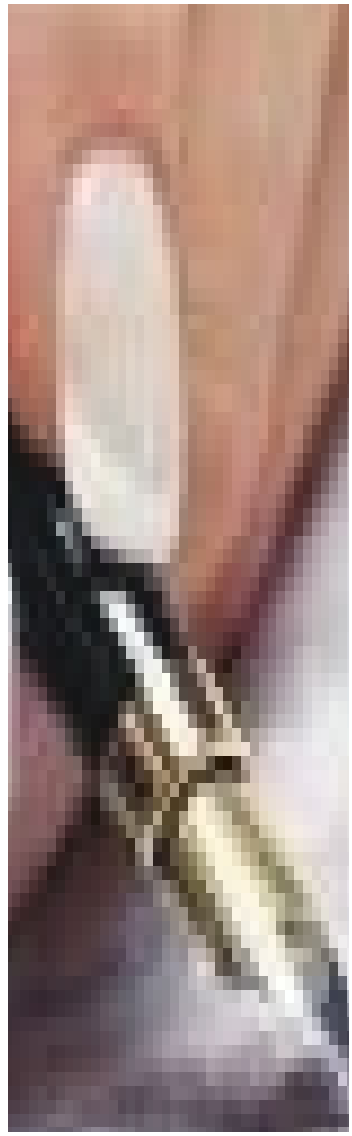
COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000

ANNUAL REPORT TO CONGRESS

MAY 2005


Department of Justice

Department of Education

Federal Trade Commission

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Submitted by:
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Executive Summary

Every year, millions of high school graduates seek creative ways to finance the costs of a college education. In the process, they sometimes fall prey to scholarship and financial aid scams. To help students and their families, on November 5, 2000, Congress passed the College Scholarship Fraud Prevention Act of 2000 (Act), Pub. L. No. 106-420, 114 Stat. 1867. This Act established stricter sentencing guidelines for criminal financial aid fraud and charged the U.S. Department of Education (ED), working in conjunction with the Federal Trade Commission (FTC), with implementing national awareness activities, including a scholarship fraud awareness site on the ED website. The Act also required that the Attorney General, the Secretary of Education, and the FTC jointly submit to Congress each year a report on that year's incidence of fraud by businesses or individuals marketing financial aid assistance services to consumers.

As noted in previous years' Reports, the Department of Justice (DOJ), ED and the FTC have implemented all the provisions of the Act. The U.S. Sentencing Commission has amended its guidelines, effective November 1, 2001, to include a provision increasing the offense level for financial aid misrepresentations.

ED and the FTC have refined their consumer education efforts. Using a variety of media, including websites, booklets, brochures, videoconferences, flyers, posters, and bookmarks, ED and the FTC are disseminating information to help consumers avoid falling prey to scholarship scams. The ED materials also provide information about the major federal student aid programs. They remind students that there is no fee to submit the *Free Application for Federal Student Aid* and that free assistance with applying for aid is available from ED, high school counselors, and college financial aid administrators.

After a small downturn in 2000 and 2001, the number of complaints and inquiries to the FTC's Consumer Sentinel database scholarships/government grants category increased sizably to 4,486 in 2004 from 670 in 2003. The percentage of the total fraud complaints in the Consumer Sentinel database attributable to scholarship fraud also increased in 2004. Although the increase could be an indication of an increase in scholarship fraud, other factors suggest that the increase more likely is due to other factors. For instance, better reporting – possibly resulting from an increase in the number of law enforcement and consumer protection agencies referring complaints to the Consumer Sentinel database and greater awareness by consumers of this type of fraud and how to report it – may account for the increase. In addition, an analysis of the complaints in the Consumer Sentinel database reveals that there have been complaints about many companies but often only one or a few complaints per company. When complaints suggest a pattern that may indicate a problem, they are typically reviewed to determine if an investigation should be initiated.

A review of the complaints Consumer Sentinel received continues to indicate that the nature of the fraudulent activity has shifted from scholarship search services to financial aid consulting services, a trend that was identified in previous reports. ED has found a similar trend, with the vast majority of complaints it receives centered around services that claim to help students simplify the process of applying for aid.

In terms of law enforcement, the FTC has continued its campaign, called Project Scholarscam, to prosecute and prevent scholarship fraud. This year, the FTC resolved an action initiated in 2003 and brought a contempt action against fraudulent purveyors of college financial aid services. DOJ also brought several actions against individuals engaged in financial aid fraud. In addition, the FTC continues to monitor the Consumer Sentinel database for new targets and solicits information from ED regarding complaints it receives. Finally, the FTC and DOJ will continue to coordinate parallel civil/criminal actions in appropriate cases.

I. Introduction

Every year, families lose money to fraudulent financial aid schemes. With four-year college education costs having risen at a rate of twice the general inflation rate, many parents are understandably concerned about how to pay those costs without saddling themselves or their children with heavy debt.[1] Scam artists prey on those concerns. To help federal agencies combat financial aid scams, Congress passed the College Scholarship Fraud Prevention Act of 2000 (Act), Pub. L. No. 106-420, 114 Stat. 1867 (2000) on November 5, 2000. The Act required that the U.S. Sentencing Commission establish stronger sentencing guidelines for higher education financial assistance fraud. It also charged the Secretary of Education, working in conjunction with the Federal Trade Commission (FTC), with implementing national awareness activities, including a scholarship fraud awareness site on the Department of Education's (ED) website. The Act also required that the Attorney General, the Secretary of Education, and the FTC jointly submit to Congress each year a report on fraud by businesses or individuals that market advice or assistance to students and parents who may be seeking financial aid for higher education.

This report has been prepared according to the Act's directive. The inaugural report, issued on May 1, 2002, provided the following: how the agencies have implemented the Act's requirements; a detailed overview of financial aid scams; a description of the FTC's combined law enforcement and education campaign to stop scholarship fraud; and an assessment of the nature and quantity of scholarship fraud incidents since the date of enactment of the Act.[2] This report provides: an update of the activities of the Department of Justice (DOJ), ED and the FTC to combat scholarship fraud; and an assessment of the nature and quantity of scholarship fraud during the past year.

II. Implementation of the College Scholarship Fraud Prevention Act

A. Amendments to Sentencing Guidelines

As discussed in previous Reports, the U.S. Sentencing Commission amended the Sentencing Guidelines, effective November 1, 2001, to include enhanced penalties for financial aid fraud. Specifically, Section 2B1.1(b)(7)(D)[3] of the Sentencing Guidelines was amended to add a provision raising the relevant offense level by two levels if the offense involved misrepresentations to a consumer in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education. Although DOJ and the FTC continue to coordinate on cases that the FTC refers for criminal investigation and prosecution, there were no cases reported in which the sentencing enhancement was imposed.[4]

B. National Awareness Activities

1. ED's National Awareness Activities

Since last year's Report, ED enhanced its consumer education products and outreach efforts:

- **"Looking for Student Aid" scam awareness web page.** This page (www.studentaid.ed.gov/LSA) lists sources of free information about financial aid and warns students about scholarship scams. Since May 1, 2003, ED has updated the site and added significant amounts of information in Spanish. ED staff publicized the site by prominently featuring it in the 2005-06 *Counselors and Mentors Handbook* (see below), mentioning it at workshops and linking to it from other areas of ED's federal student aid website (www.studentaid.ed.gov). The "Looking for Student Aid" site had nearly 105,000 visits in 2004.

- **"Looking for Student Aid" brochure.** The brochure is an abbreviated version of the information available on the "Looking for Student Aid" web page. In 2004, more than 573,000 English brochures and 109,000 Spanish brochures were distributed to schools, community organizations, and individuals. Meanwhile, more than 12,400 copies of the English version and 580 of the Spanish version were downloaded from the Web. Additionally, the Spanish version was retranslated to make it clearer.

- **"Don't Get Stung" poster.** The poster reminds students that there is no fee to learn about or to submit the *Free Application for Federal Student Aid* (FAFSA).[5] The poster also refers students to sources of free information on all types of financial aid for college. In April 2004, the poster was added to ED's online Bulk Publication Ordering System, a site used regularly by school counselors to order federal student aid publications. The increased awareness of the poster resulted in increased orders: In 2004, about 16,000 copies of the full-size poster were ordered from ED's publication warehouse, while 3,450 of the 8.5" x 11" version were downloaded at www.studentaid.ed.gov/stung.

- **The *Counselors and Mentors Handbook on Federal Student Aid* 2005-06.** The *Handbook* (formerly the *High School Counselor's Handbook*) explains ED's federal student aid programs and the application process. The 2005-06 *Handbook* was mailed to nearly 30,000 high school, TRIO,[6] and other college access counselors in November 2004. The initial print run of 40,000 was exhausted by January 2005; and 15,000 additional copies were printed. The *Handbook* also is available at www.fsa4schools.ed.gov/counselors.

- ***The Student Guide* (2005-06 edition).** Geared toward high school seniors, college students, adult students, and parents, the *Guide* explains ED's aid programs in detail and includes a warning about financial aid scams. The front page of the online *Guide* (www.studentaid.ed.gov/guide) has a link to the scam section. To further publicize the book, there are links to the *Guide* from other areas of the www.studentaid.ed.gov site. More than 7 million copies of the 2005-06 English edition, and more than 550,000 of the Spanish version, were printed. In 2004, there were more than 1,430,000 visitors to the online *Student Guide* at www.studentaid.ed.gov/guide; approximately 59,800 visitors accessed the page that warns about scholarship scams. More than 342,000 copies of the 2004-05 PDF version were downloaded in 2004. (The 2005-06 version was not available online until 2005.)

- ***Funding Your Education* (2005-06 edition).** This is an abbreviated edition of *The Student Guide*, simplified to introduce younger students to the federal student aid programs. Approximately 5 million English copies and 375,000 Spanish copies of *Funding* were printed for 2005-06. The online version, at www.studentaid.ed.gov/fye, had over 141,000 visitors in 2004. Of those visitors, more than 17,000 visited the web page that warns about scholarship scams. Additionally, more than 102,000 copies were downloaded from the website.

- ***Federal Student Aid* [FSA] *Handbook* (2004-05 edition)**. The *FSA Handbook* is a detailed technical guide that provides financial aid administrators (FAAs) the information they need for their jobs. For the 2004-05 *FSA Handbook*, a full-page scam alert was added. The alert encourages FAAs to educate students about the fraud warning signs described on the FTC's www.ftc.gov/scholarshipscams site. The *FSA Handbook* is distributed to more than 6,000 postsecondary schools each year and is available for download at www.ifap.ed.gov.

- **"Don't Get Scammed on Your Way to College" fact sheet.** "Don't Get Scammed" is one of several one-page fact sheets ED produces each year. Based on the FTC's "Six Signs That Your Scholarship is Sunk," the fact sheet was revised and updated in 2004 to include information about a new scam. (See section III.B.2 below.) The fact sheet is available as a perforated page in the *Counselors and Mentors Handbook* so it can be removed and copied for distribution to students. It is online at www.studentaid.ed.gov/pubs.

- **Presentations.** ED's Awareness and Outreach (A&O) office makes dozens of presentations a year to students, parents, and counselors. Staff members make an effort to include at least a brief warning about financial aid fraud in each workshop. In 2004, A&O jointly presented an hour-long scam awareness workshop with National Association for College Admission Counseling (NACAC) staff at NACAC's annual conference.

- **Videoconferences.** Each fall, ED hosts a federal student aid training videoconference for high school and TRIO counselors. In 2004, ED staff expanded the section of the script that discussed companies that charge to help students obtain financial aid. The live audience for the 2004 training consisted of nearly 2,800 counselors and students. Additionally, 1,500 videotapes of the training have been made available for counselors. The training also is available to view online at www.edvideo.walcoff.com.

2. FTC's Consumer Education and Outreach Efforts

The FTC has an ongoing project to prosecute and prevent scholarship fraud called Project Scholarscam. Formally initiated in 1996, it includes both law enforcement action and a massive consumer education campaign to help students, parents, educators and financial aid administrators identify and avoid scholarship scams. The FTC's Office of Consumer and Business Education (OCBE) produced a package of consumer education materials, a website (www.ftc.gov/scholarshipscams), and a series of flyers, posters and bookmarks. The website includes comprehensive information about scholarship scams and ways consumers can avoid falling prey to fraudulent marketing schemes. The flyers, posters, and bookmarks include abbreviated information from the website and tips to help consumers avoid scholarship scams, for example, "Six Signs That Your Scholarship Is Sunk."

To ensure widespread distribution of the materials and reach the largest number of at-risk consumers, the FTC developed partnerships with public and private organizations. The FTC and its partners distributed nearly 3.4 million print publications and had more than 525,000 accesses on its website, for total distribution of nearly 3.9 million English and Spanish publications (October 1996 - December 2004). In 2004, the FTC and its partners distributed over 65,000 print publications and had more than 117,000 accesses to its scholarship scams website.

OCBE also has continued to provide print publications to students and their parents through local school districts' college and career fairs. During 2004, they distributed over 37,000 publications at three of these school events. In addition, FTC regional offices distributed several hundred scholarship scams publications at local events. Moreover, the media often is interested in scholarship scams. Accordingly, the FTC staff frequently provides, through the media, tips for consumers to avoid these scams.

Continuing their partnership, ED's 2005-06 *Counselors and Mentors Handbook* includes a fact sheet based on the FTC's consumer information, "Don't get scammed on your way to college!," as well as numerous other references to information on avoiding scholarship scams. In addition, ED's www.studentaid.ed.gov site includes links to the FTC's website, and the FTC scholarship scams website includes links to ED's website. Also, ED's *Funding Your Education* publication includes information on avoiding scholarship scams and directs students to the FTC's website.

III. Nature and Quantity of Incidents of Scholarship Fraud

A. Overview of Financial Aid Fraud

As discussed in previous Reports, operators of financial aid scams generally promise that their services will ensure that students receive either a scholarship or more financial aid than students and parents could get on their own. Other typical claims financial aid scam artists make include: claims that millions (in some cases billions) of dollars of scholarships go unclaimed every year, with promises to get the student his or her fair share; claims of extremely high success rates, including "testimonials" from satisfied customers; and claims to be endorsed or approved by a federal or state agency, a chamber of commerce, or a Better Business Bureau or its equivalent.[7] In fact, for fees ranging from $50 to more than $1,000, these operators provide few, if any, services to help students and their families find financial aid. Any information provided is generally of limited use. Financial aid scams are marketed to consumers in a variety of media, including: telemarketing, direct mail, e-mail, seminars, and ads on the Internet.

B. Assessment of Current Status of Fraud

Every year millions of students apply for financial aid and scholarships to help finance their education at an institution of higher learning. Unfortunately, some of these students also become victims of financial aid or scholarship fraud.

1. FTC Complaint Database

The FTC has been monitoring consumer complaints related to financial aid fraud for nearly a decade. After a small downturn in 2000 and 2001, the number of complaints and inquiries to the FTC's Consumer Sentinel database[8] increased sizably over the past three years, 2002-04.[9] As discussed in earlier Reports, raw complaint and inquiry numbers are an imperfect gauge of the extent of fraudulent activity – certain types of fraud may be under-represented[10] whereas in other instances the raw numbers may over-state the extent of the fraud. For example, increases in the number of complaints and inquiries may be due either to more fraudulent activity or an increase in the number of law enforcement and consumer protection agencies referring complaints to the Consumer Sentinel database and an increased consumer awareness of the fraud and how to report it.

An analysis of the 2004 complaints to the Consumer Sentinel database reflects that the complaints and inquiries were against more than 1000 different companies. But, many companies were the subject of only one or a handful of complaints or inquiries. In addition, the 2004 scholarship-related complaints represent a small portion, only 1.15%, of total fraud complaints in the Consumer Sentinel database.[11] Moreover, the category includes types of fraud beyond scholarship scams, including government grants. Thus, although raw complaint and inquiry numbers rose to 4,486 from 670 in the scholarships/government grants category, it is still a very small percentage of total fraud complaints. Under these circumstances, it is difficult, if not impossible, to draw conclusions about the true incidence of scholarship-related fraud from the complaint database.

The FTC continually monitors the complaints in the Consumer Sentinel database to observe trends of fraudulent activity and identify possible targets for law enforcement action. Companies or individuals that generated a sufficient number of complaints to indicate a pattern or practice of deceptive or fraudulent conduct are typically investigated and often targeted for law enforcement.

Previous Reports discussed that the nature of complaints in the Consumer Sentinel database has changed over time. In 1996, when the FTC launched Project Scholarscam, many complaints concerned telemarketing fraud by bogus scholarship search firms (*e.g.,* guaranteed scholarships or scholarships for profit). Although there are still complaints against these types of firms, more recent complaints involve financial aid consulting firms that promise customized, comprehensive financial aid planning to maximize the student's financial aid eligibility, using direct mail solicitations and oral sales presentations to market their services. This trend is continuing. In 2004, the FTC received more complaints involving financial aid consulting firms than scholarship search services.

2. ED's Complaint Monitoring

ED also receives written and telephone complaints about financial aid fraud. Because ED, unlike the FTC, is not a major or well-recognized clearinghouse for complaints, the number of complaints it receives is small.

Complaints to ED's Federal Student Aid Information Center (FSAIC)

The FSAIC has two sections: the correspondence unit and the telephone hotline (1-800-4-FED-AID).

In 2004, the FSAIC's correspondence unit received two written complaints about companies charging students for help finding money for college. One letter indicated that the inquirer had searched online for grants and scholarships but had found only "moderately to expensively priced guides or lists that promised free money." The inquirer indicated that she believed she should not have to pay to find grants. The FSAIC responded that ED offers grants for education and recommended that the inquirer read *The Student Guide* (which was enclosed) for information.

The other letter was from the father of a student who is now in college. When the son was in high school, he was invited to a meeting with a college preparation services company. The father believed that the company would provide financial aid to his son. When it did not, he asked for a refund. The company refused. His letter to ED was a request for assistance in obtaining a refund. ED's response indicated that ED has no jurisdiction over such companies and suggested that the inquirer contact the Better Business Bureau or his State Attorney General's office regarding the company in question. ED also provided the FTC's www.ftc.gov/scholarshipscams web address.

The FSAIC's hotline received 65 calls in 2004 (up from 43 in 2003) from consumers who believed they had been unfairly charged for scholarship or financial aid information or applications. The increase in complaints was due to a scam that was first brought to ED's attention in April 2004. Someone claiming to be from ED, from "the Government Grant Center," or from a similarly named organization called the student and offered him or her a grant (usually of $8,000). The perpetrator then asked for the student's bank account information so a processing fee (usually about $249) could be charged. ED staff referred to this as the "ED impostor" scam. A significant number (between a third and half) of the complainants indicated that they had disclosed their information to the impostor. Callers who had released personal information were urged to contact their banks, ED's Office of Inspector General (OIG), the FTC, and the police. Summaries of all calls were forwarded to OIG.[12]

As soon as ED's A&O team learned of the impostor scam, they worked with ED's OIG, Office of General Counsel, Office of Public Affairs, and the FTC to draft a series of notices describing the scam and how to report it to the appropriate authorities. The notices, targeted to various audiences, were placed on ED's websites for financial aid administrators (www.ifap.ed.gov), school counselors (www.fsa4schools.ed.gov/counselors), and students (www.studentaid.ed.gov). Additionally, the counselor notice was disseminated to listservs for high school and other college-preparation counselors. The education community assisted in ED's outreach efforts by taking action as well. Many high schools, colleges, and associations added a warning about the scam to their websites and/or sent a warning directly to their students. NACAC issued a press release that was picked up by media outlets across the country.

Of the 65 complaint calls received at the FSAIC's hotline in 2004, 28 were from students who had been charged a fee to submit the FAFSA. Upon receiving such calls, customer service representatives routinely advise the inquirer to contact the Better Business Bureau and/or the FTC with their concerns. ED has investigated the legality of companies charging students to help complete the FAFSA. Although the law prohibits companies from charging a fee for the "collection, processing, or delivery of financial aid" through the use of the FAFSA, the organizations ED has looked at claim that the fee they charge is for providing advice and counsel to students and families, not for helping them complete the FAFSA. Further, this statutory prohibition does not provide ED with a practical means of compelling commercial entities to change their practices because these entities have no direct relationship with either ED or the educational institutions, lenders, and guarantors with which ED has a funding and regulatory relationship under the student aid programs. ED therefore has no way to impose any administrative sanction upon these companies.

Complaints to ED's Office of the Inspector General (OIG)

The OIG maintains a hotline (1-800-MIS-USED) and e-mail address (oig.hotline@ed.gov) for complaints relating to fraud, waste, and abuse involving ED's funds. Complaints also may be submitted by mail. OIG staff reported that there were 310 complaints about the ED impostor scam in 2004. The complaints are under investigation by OIG. In addition, the complaints were forwarded to the FTC.

ED's OIG also investigates cases of fraud, waste or abuse involving ED's federal student aid funds. Among the complaints received in 2004, there were 260 reports of individuals fraudulently using the identity of students to obtain federal aid; and there were 258 complaints about students falsifying their FAFSAs to obtain additional aid.

Complaints or queries on e-mail listservs for college financial aid counselors, high school counselors and TRIO counselors

ED's A&O staff members monitor listservs directed to professionals involved in helping students obtain student aid. In 2004, list members posted a total of 48 messages (nearly all on the high school and TRIO lists) asking or warning about companies charging fees for aid or information. The greatest surge in such messages was in the winter (January - March), when high school seniors typically fill out financial aid applications. In response to these messages, ED staff members occasionally post reminders that students can receive free advice from college financial aid administrators and from ED (as well as from high school and TRIO counselors themselves).

The number of messages posted dropped from 68 in 2003. Although the decrease could be attributable to a decrease in the amount of scholarship fraud, the more likely reason is greater awareness on the part of counselors. As a result of ED's and the FTC's consumer education efforts, counselors may be telling their students simply not to purchase the services of a particular company rather than first posting a message to the list asking whether the company in question is legitimate.

Nearly all of the messages on counselor listservs were about financial aid consulting services or scholarships with application fees. There were no questions or complaints about the ED impostor scam on secondary school lists; that scam targets college students. In fact, ED is aware of only two messages on financial aid administrator lists, and both of those were sent before ED's warning appeared on www.ifap.ed.gov. It appears that ED was effective in reaching financial aid administrators with its advice about where to report the scam. Before the message was posted in mid-July, there had been only a few complaints to OIG about the impostor (one in May and three in June). After the warning was posted, the number of complaints increased dramatically to 64 in July and 80 in August. Since August, the number of complaints to OIG has decreased each month.

C. FTC's Scholarship Fraud Prevention Program

As mentioned above, the FTC's Project Scholarscam combines law enforcement[13] with consumer education to stop fraudulent purveyors of so-called "scholarship services." In total, 13 companies and 34 individuals are subject to federal court orders prohibiting future misrepresentations. Most of the orders permanently ban the defendants from marketing scholarship services. Many of the orders also require the defendants to post performance bonds before engaging in telemarketing.[14] More than $2.1 million has been refunded to consumers or disgorged to the U.S. Treasury when redress to consumers was impracticable.[15]

Since last year's Report, the FTC has announced two law enforcement actions against companies alleged to have falsely promised scholarships to students and their parents or to have misrepresented the services they offered.

- *College Advantage, Inc.*

In January 2005 the FTC announced that it obtained settlements with The College Advantage, Inc. (also doing business as College Funding Center), C Funding Group, LLC (also doing business as College Funding Group), and their principals, Alan Baron and Edward Jacobs, and relief defendants, Donna Baron and Claudia Jacobs.[16] The defendants, operating out of Plano and Katy, Texas, allegedly defrauded approximately 12,000 consumers out of $15 million. The complaints in this case were filed in May 2003 and described in last year's Report. At that time the FTC was still in litigation against the defendants.[17]

The FTC's complaint alleged that, using letters, seminars and sophisticated websites the defendants promised that, for $1,000 to $2,000, they would secure 100% of the funding necessary to attend college. The defendants also promised to reduce consumers' out-of-pocket tuition expenditures by obtaining scholarships and grants. The program was underscored with a money-back guarantee.

The settlement with Edward and Claudia Jacobs requires them to pay $1,400,000 in consumer redress. The settlement with Alan and Donna Baron requires them to pay $33,000 in redress. In addition, the defendants are required to post a $1 million performance bond prior to any future involvement in the promotion and marketing of college financial aid assistance programs. The money judgments are based upon the defendants' ability to pay. Accordingly, both judgments contain a suspended judgment of $15,509,564 and an avalanche clause that would reinstate the entire judgment if it is found that the defendants made material misrepresentations in their financial statements.

- *Integrated Capital Inc.*

The FTC obtained a consent judgment, in August 2003, against Integrated Capital Inc. (doing business as National Student Financial Aid or NSFA) and its president, Sheila Cuccia, which was described in last year's Report. In July 2004, the FTC filed a contempt action against NSFA and its new President, Alan Wilson, for allegedly violating this Order. In March 2005, the court granted the FTC's motion, in part. The court found NSFA and Wilson in civil contempt of the Order and ordered the defendants to offer full redress.

In the original case the FTC alleged that the defendants, based in Carson City, Nevada, defrauded approximately 40,000 consumers out of $10 million. The defendants marketed their financial aid services through a direct mail campaign targeted to high school students and their parents. The National Student Financial Aid letter stated that students "had been selected, by our College Review Board" as "eligible" to apply for financial assistance through the defendants' "college assistance program," and that over 90% of the defendants' clients have had their financial aid eligibility increased. The letter also invited students to attend an interview. The interviews, typically held at local hotels, were really high-pressure sales seminars during which the defendants promoted their college planning and financial aid services. These services, ranging in price from $795 to $1,200 depending upon whether parents paid up-front or over time, purportedly helped consumers obtain more financial aid than they could on their own.

The defendants stated that they would prepare personalized financial aid reports and design customized strategies to maximize the amount of financial aid a student would receive. Consumers were guaranteed to obtain at least $2,500 in financial aid, or a reduction of $2,500 in their Expected Family Contribution, or receive their money back. In reality, National Student Financial Aid provided only generalized information, and the "customized" strategies were not tailored to individual financial situations. Much of the materials consumers received consisted of readily-available public information that consumers could obtain for free.

Under the terms of the consent judgment, the defendants are prohibited from making misrepresentations in connection with the offering of academic goods and services. The settlement also requires the defendants to make certain affirmative disclosures in their sales presentations, including that purchasing their services does not guarantee a student will get any financial aid or more financial aid than he or she could have otherwise obtained. In addition, the defendants paid $115,000 in consumer redress.

In its contempt motion, the FTC charged that NSFA and Wilson continued to (i) misrepresent that consumers are likely to receive substantially more financial aid using NSFA's services than they could otherwise obtain on their own; (ii) misrepresent that consumers purchasing NSFA's services are likely to receive a specified amount of financial aid or an increase in financial aid eligibility; and (iii) misrepresent the extent to which consumers will be required to incur additional expense or partake in any activities in order to use NSFA's services. In addition, the agency alleged that NSFA and Alan Wilson have failed to make required affirmative disclosures during NSFA's oral sales presentations. To remedy their contemptuous behavior, the FTC asked the court to rescind all consumer contracts entered into since August 2003 and to refund all monies consumers paid to NSFA during the contempt period. The agency also asked the Court to modify the settlement to ban NSFA and Wilson permanently from the marketing and sale of academic goods and services.

The court agreed with the FTC that the defendants violated the affirmative disclosure provisions of the Order and ordered full redress. The court declined to ban the defendants from the marketing and sale of academic goods and services. The court modified the Order to require the defendants to submit promotional materials to the FTC for prior approval and to file periodic status reports regarding defendants' compliance with the Order with the court until 2008.

D. DOJ's Financial Aid Fraud Prevention Program

Since last year's Report, several individuals who engaged in fraud in the offering of higher education financial aid were indicted, convicted or sentenced.

- *United States v. Celious Barner*, Case No. 1:04-CR-00014 (S.D. Ala.)

In February 2004, the defendant, an employee of Bishop State Community College, pled guilty to charges of misapplication of federal funds and theft from programs receiving federal funds. The defendant worked for the college signing up students who did not qualify and taking kick-backs in return. In August 2004, the defendant was sentenced to 15 months incarceration followed by 3 years supervised release term. He was also ordered to pay the college $24,483.58 in restitution.

- *United States v. Michael Solovey and Serge Ivanov*, Case No. 3:04-CR-00310 (N.D. Cal.)

On September 23, 2004 the defendants were indicted on charges of conspiracy, financial aid fraud, mail fraud, and money laundering. Trial is scheduled for April 2005. The indictment alleges that from approximately December 1999 to October 2001, the defendants devised and participated in a scheme to defraud the Department of Education in connection with its administration of Title IV financial aid programs and its control over the disbursement and use of federal Pell grants and student loans. The alleged goal of the scheme was to circumvent Title IV and its regulations and obtain federal funds through fraudulent means, the proceeds of which were used, among other things, for personal gain and/or for the promotion of the underlying scheme to defraud. The overall alleged loss is $1.7 million.

- *United States v. Patricia Frasier Bedford and Melissa Bedford Blalock*, Case No. 2:01-CR-20136 (W.D. La.)

The defendants, convicted by jury trial on October 10, 2003, were sentenced on June 28, 2004. The defendants owned and operated Louisiana Training Center, Inc (LTC) which participated in the Pell Grant and Direct Loan Programs. LTC received funds from these programs on behalf of eligible students seeking courses in cosmetology and health care. LTC closed without notice in December of 1997, and investigation revealed that LTC failed to refund tuition for 23 students who dropped out of LTC before completing 50% of their course work. The defendants were convicted of, in effect, embezzling $51,895 that should have been refunded. The defendants were sentenced to 16 months incarceration and ordered to pay $54,293 in restitution to the Department of Education.

- *United States v. James McHann and W. Howard Burkeen,* Case No. 04-CR-80363 (E.D. Mich.)

On April 20, 2004, the defendants were indicted on charges of wire fraud, Title IV fraud, and bank fraud. The indictment alleged that in 2001 the defendants purchased a bankrupt computer school in Madison Heights, Michigan, which they renamed the "Tyndale Technical Institute" (TTI). At the time, McHann was the President of and a Director of similarly named "William Tyndale College" where Burkeen was the Vice President for Academic Affairs and the Dean of Faculty. While William Tyndale College was eligible to participate in and was certified by the Department of Education to participate in Title IV financial aid programs, TTI was not. The indictment alleged that McHann and Burkeen caused TTI students to be fraudulently described as William Tyndale College students on applications for financial aid causing educational benefits to be improperly awarded. Burkeen pled guilty to one count conspiracy to obtain by fraud federal financial aid on November 20, 2004.

- *United States v. Walid Alsabbagh et al.*, Case. No. 02-CR-80959 (E.D. Mich.)

The defendants were charged with conspiracy to defraud the United States, wire fraud, and student financial aid fraud. Mahmoud Younis was the owner of a school called "The Training Center" that offered a variety of courses. The Training Center was eligible and certified by the Department of Education to participate in Title IV financial aid programs, but not for all of its curriculum. The defendants falsified records in order to receive benefits. The majority of students who attended The Training Center did not meet the criteria to be awarded scholarships and were taking courses not covered under Title IV. Thus, the falsification of records caused educational benefits to be improperly awarded. On June 30, 2004, a jury returned guilty verdicts on all counts against defendants Younis, Walid Alsabbagh, Jamal Mourtada, and Muna Jaber. The jury found defendant Sahar Younes guilty of student financial aid fraud. On May 27, 2004, defendant Mariam Chbib Chbib pled guilty to making false statements and was sentenced to 24 months probation. On October 21, 2004, defendant Linda Johnson, who pled guilty to federal program fraud, was sentenced to 2 years probation. On November 15 2004, defendant Gregory Moore, who pled guilty to federal program fraud, was sentenced to 2 years probation.

- *United States v. Vanessa Neal,* Case No. 03-CR-20255 (W.D. Tenn.)

On March 2, 2004, the defendant was sentenced to 6 months incarceration followed by 3 years supervised release, after pleading guilty to conspiracy to defraud the United States. The defendant was an employee of Le-Moyne-Owen College of Memphis. The defendant, along with other employees and students, was allegedly involved in a conspiracy to defraud the state of Tennessee through embezzlement and conversion of Title IV federal student financial aid program funds.

IV. Conclusion

As described above, the FTC, ED and DOJ have implemented the directives of the College Scholarship Fraud Prevention Act of 2000. Together, the agencies are continuing to work cooperatively to prosecute and prevent scholarship fraud.

Endnotes

1. *Pros Offer Smart Tips on Saving for College*, PR Newswire, Dec. 3, 2003 ("[s]ince 1980, as measured by the consumer price index (CPI), college costs have grown two to two and one-half times faster than inflation."); *Fact Sheet: The Rising Cost of a College Education*, House Comm. on Education & the Workforce, 108th Cong. ("[d]uring the ten-year period ending in 2000-2001, after adjusting for inflation, average public four-year tuition and fees rose 40 percent, and private four-year college tuition rose 33 percent. Additionally, while tuition has run more than 100 percent ahead of the CPI since 1981, median family income has risen only 27 percent in real terms.") (*report is available at* edworkforce.house.gov/issues/108th/education/highereducation/cost.htm).

2. The inaugural report can be found at www.ftc.gov/os/2002/05/scholarshipfraudreport2001.pdf. The second report can be found at http://www.ftc.gov/os/2003/05/collegesfpactreport.pdf. The third report can be found at http://www.ftc.gov/os/2004/05/2004collegescholarshipfraudrpt.pdf.

3. On November 1, 2004, this provision was re-designated as U.S.S.G. § 2B1.1(b)(8)(D).

4. The United States Sentencing Commission collects statistical information on the use of specific provisions of the Sentencing Guidelines. The data from any given fiscal year is not fully entered into the database until the next fiscal year. Thus, statistics from fiscal year 2004 are not yet available. A search of the fiscal year 2003 sentencing database, however, disclosed no instance in which the U.S.S.G. § 2B1.1(b)(7)(D) enhancement was applied.

In addition to the Sentencing Commission database, another source for statistics on the use of the sentencing enhancement is the Executive Office for United States Attorneys (EOUSA). The EOUSA tracks case statistics from each district by criminal statute, for example 20 U.S.C. § 1097 which involves fraud in the procurement of financial aid. The EOUSA survey did not identify any instances in which the U.S.S.G. § 2B1.1(b)(7)(D) sentencing enhancement had been requested or imposed in fiscal year 2004.

5. To apply for federal student financial aid, and to apply for many state student aid programs, students must complete a FAFSA. ED uses the information provided on a student's FAFSA to determine the student's eligibility for aid from the Federal Student Aid programs. Many states and schools also use the FAFSA to award aid from their programs. Some states and schools may require the student to fill out additional forms.

6. The title "TRIO" refers to a group of programs operated by postsecondary schools and nonprofit organizations to increase awareness among secondary school students of opportunities for postsecondary education and to support students enrolled in postsecondary education. The programs are called the TRIO programs because there were three of these types of programs when they were first created in the 1960s — Upward Bound, Talent Search and Student Support Services. Currently, there are eight TRIO programs — Educational Opportunity Centers, Ronald E. McNair Postbaccalaureate Achievement Program, Student Support Services, Talent Search,

Training Program for Federal TRIO Programs, TRIO Dissemination Partnership, Upward Bound, and Upward Bound Math/Science.

7. *Solving the Problem of Scholarship Scams: Hearings on S. 1455, The College Scholarship Fraud Prevention Act of 1999 Before the Senate Comm. on the Judiciary*, 106th Cong. (1999) (statement of Mark Kantrowitz, publisher of the www.finaid.org website).

8. Consumer Sentinel is a secure, password-protected complaint database designed to allow law enforcers to share data about fraud. Consumer Sentinel now contains over 2 million fraud and identity theft complaints and is accessible to more than 1,200 law enforcement agencies – including every state attorney general in the U.S. and consumer protection agencies in 19 nations. In addition to consumer complaints, Consumer Sentinel offers its law enforcement members a variety of tools to facilitate investigations and prosecutions, including: a catalog of companies currently under investigation; information to help agencies coordinate effective joint action; an index of fraudulent telemarketing sales pitches; and data analysis to determine trends in fraud. Consumer Sentinel collects complaints from the FTC and over 100 other organizations. More information on Consumer Sentinel can be found in *National and State Trends in Fraud and Identity Theft – January - December 2004*, issued by the FTC in February 2005 and available online at: http://www.consumer.gov/sentinel/pubs/Top10Fraud2004.pdf.

9. The numbers of complaints per year are as follows:

Year	Number of Complaints
1993-95	114
1996	151
1997	182
1998	337
1999	420
2000	380
2001	322
2002	517
2003	670
2004	4,486

10. As discussed in previous years' Reports, the number of complaints contained in the Consumer Sentinel database does not provide a complete picture of the extent of consumer injury

from any particular type of fraud – although it is used extensively by the FTC and other law enforcement agencies nationwide to spot trends in fraudulent practices and identify potential targets for law enforcement. Some consumers may have complained directly to the company or to law enforcement authorities that do not input their complaints into the Sentinel database. In addition, some of the financial aid scams are operating on the Internet and are relatively inexpensive. Often when the financial injury is low, consumers do not complain.

11. Since the FTC first launched Project Scholarscam in 1996, the ratio of scholarship-related complaints to total fraud complaints was less than 1% and was steadily decreasing. In the past year, 2004, the ratio of scholarship-related complaints to total fraud complaints increased. As discussed above, however, an increase in scholarship-related complaints can be attributable to factors other than an actual increase in the amount of scholarship fraud. These factors may include more contributors to the Consumer Sentinel database, more law enforcement and consumer protection agencies referring complaints to the Consumer Sentinel database, and increased consumer awareness of how to report fraud or how to inquire about a company's practices. The number of scholarship-related complaints versus total fraud complaints per year are as follows:

Year	Scholarship-Related Complaints	Total Fraud Complaints	Percentage
1993-95	114	45,765	0.25
1996	151	16,588	0.91
1997	182	29,069	0.63
1998	337	62,840	0.54
1999	420	85,248	0.49
2000	380	107,909	0.35
2001	322	134,133	0.24
2002	517	241,795	0.21
2003	670	327,285	0.20
2004	4,486	388,907	1.15

12. The FTC, in conjunction with the Louisiana Department of Justice, shut down a similar fraudulent grant scheme in November 2004. The action was against US Grant Resources, LLC, National Grants, and their principals, John and Laurel Rodgers, and the final order bars those defendants from selling grant services in the future and required a consumer redress payment of over $500,000. The government grants marketed in that case were for any purpose, not

specifically for scholarships or educational grants.

13. Among other things, the FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), allows the FTC to bring, by its own attorneys, actions in federal district court to halt violations of Section 5. Remedies available to the FTC include permanent injunctions and equitable monetary relief such as redress to consumers or disgorgement of unjust enrichment. Section 13(b) also allows the FTC to seek preliminary relief, including temporary restraining orders and preliminary injunctions. In appropriate cases, the FTC may seek such preliminary relief on an *ex parte* basis.

14. Bonds are designed to deter defendants from engaging in misrepresentations and provide a fund for consumer redress should the defendants violate the order.

15. Although the FTC obtained approximately $22.8 million in judgments, some of these judgments were not collectable. Others have been referred to the U.S. Treasury for collection.

16. The FTC amended its complaint to name Claudia Jacobs and Donna Baron, the wives of the named defendants, as relief defendants. As relief defendants, the amended complaint alleges that they received funds derived from the named defendants' violations of the FTC Act and for which they have no legitimate claim. The FTC sought an order requiring them to disgorge their unjust enrichment.

17. The FTC obtained preliminary relief against these defendants including an *ex parte* temporary restraining order prohibiting further misrepresentations of their financial aid program and freezing all of the defendants' assets. The court later entered a preliminary injunction against the defendants, continuing the terms of the temporary restraining order, including the asset freeze.