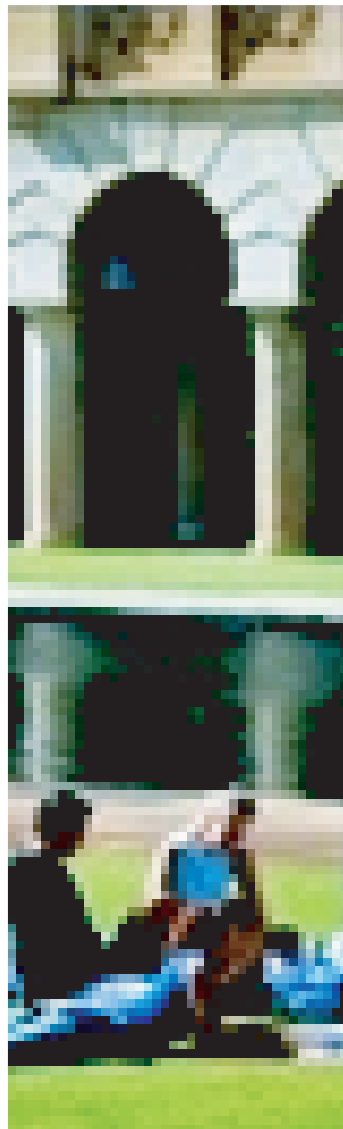


# COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000

## □ ANNUAL REPORT TO CONGRESS □

May 2006



Department of Justice



Department of Education



Federal Trade Commission

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**Submitted by:  
Department of Justice  
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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 page 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.

ED and the FTC have continued 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.

Complaints regarding scholarship fraud have remained fairly constant for over a decade with one anomalous spike in 2004 and a return to the general trend in 2005. In addition, except for 2004, scholarship fraud complaints have diminished as a percentage of all complaints received by the FTC. A review of these complaints indicates that the nature of scholarship fraud has changed over time, shifting from scholarship search services to financial aid consulting services.

The FTC continues to monitor complaints to determine if law enforcement action is necessary. In addition, DOJ brought several actions against individuals engaged in financial aid fraud, one of which resulted in the imposition of the Act's sentencing enhancement for fraud in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education. 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 rising faster than the rate of inflation, many parents are understandably concerned about how to pay those costs without saddling themselves or their children with heavy debt.<sup>1</sup> 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 directed the Secretary of Education, working in conjunction with the Federal Trade Commission (FTC), to implement national awareness activities, including a scholarship fraud awareness site on the Department of Education's (ED) website. The Act further 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: an explanation of 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.<sup>2</sup> 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, it amended Section 2B1.1(b)(7)(D)<sup>3</sup> of the Sentencing Guidelines to add a provision raising the relevant "offense level" by two levels if the crime involved misrepresentations to a consumer in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education. As discussed more fully in Section III.D below, the enhancement was imposed in the November 2004 sentencing of Tiffany Jenkins after she pled guilty to scholarship fraud. 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 2005 in which the sentencing enhancement was imposed.<sup>4</sup>

## B. National Awareness Activities

### 1. ED's National Awareness Activities

ED continues to provide consumer education products and engage in outreach efforts to increase awareness of financial aid fraud. The primary awareness products are a brochure and associated website, both called "Looking for Student Aid," which list sources of free information about financial aid and warn students about scholarship scams. As discussed in more detail in last year's Report, ED also publishes booklets, a poster, fact sheets, and a video that provide fraud prevention information to consumers. Distribution of print publications with scam warnings totaled nearly 8.5 million copies in 2005. Visitors to ED's [www.studentaid.ed.gov](http://www.studentaid.ed.gov) website, which hosts the online versions of those publications, numbered more than 10.8 million in 2005.

ED's outreach activities include numerous presentations to students, parents, counselors, and college financial aid administrators. Staff members make an effort to include at least a brief warning about financial aid fraud in each workshop. In 2005, ED presented six workshops dedicated solely to the topic of fraud (including scholarship scams) at conferences for college financial aid administrators.

In order to stay aware of issues concerning various audiences, ED staff members monitor listservs directed to professionals (such as high school or TRIO<sup>5</sup> counselors) involved in helping students obtain financial aid. List members sometimes post messages asking or warning about companies charging fees for aid or information about aid. In response to such 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). ED's reminders are sent to more than 5,000 listserv members.

### 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 consumer education campaign includes a package of consumer education materials, a website ([www.ftc.gov/scholarshipscams](http://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 reach the largest number of at-risk consumers, the FTC developed partnerships with public and private organizations, including ED and the National Association of College

Admissions Counselors. From October 1996 through December 2005, the FTC and its partners distributed over 3.4 million print publications and had more than 800,000 accesses on its website, for total distribution of nearly 4.2 million English and Spanish publications. In 2005, the FTC and its partners distributed over 45,925 print publications and had more than 165,465 accesses to its scholarship scams website.

The FTC also has continued to provide print publications to students and their parents through local school districts' college and career fairs. During 2005, the FTC distributed over 40,000 publications at such school events. The FTC also conducts outreach directly to high school students and their parents. For example, the FTC has included materials on scholarship fraud in presentations to students as part of its High School Financial Literacy project. Moreover, the media often are 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](http://www.studentaid.ed.gov) site includes links to the FTC's website, and the FTC scholarship scams website includes links to ED's website.

### III. Nature and Quantity of Incidents of Financial Aid 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 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.<sup>6</sup> 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. Fraud artists market these financial aid scams 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

Both the FTC and ED receive financial aid related complaints from consumers. The FTC reviewed complaints in its Consumer Sentinel<sup>7</sup> database to assess the current status of financial aid fraud, while ED reviewed complaints received by the Federal Student Aid Information Center and its Office of Inspector General.

## 1. FTC Complaint Database

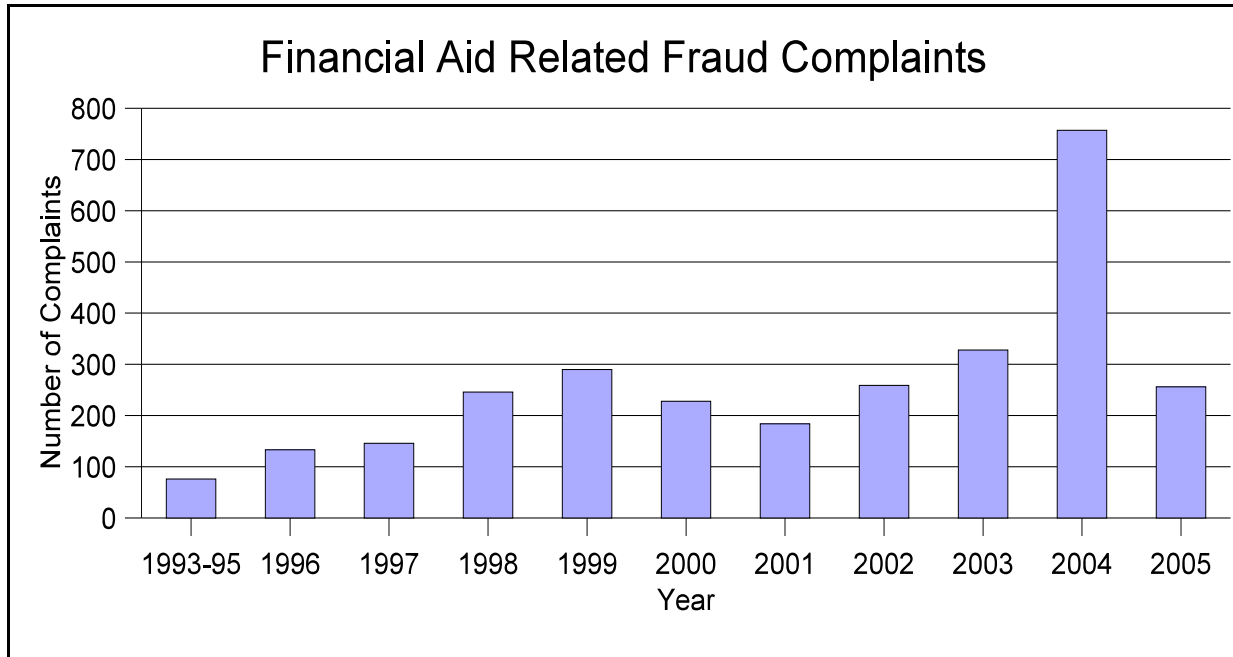
Complaints regarding scholarship fraud have remained fairly constant for over a decade with one anomalous spike in 2004 and a return to the general trend in 2005. Explaining this trend requires a short discussion of how complaints are categorized within the FTC's Consumer Sentinel database. Specifically, the FTC collects and maintains complaints regarding scholarship scams within a category entitled "scholarship/educational grants." The total number of complaints collected within this category has shown a dramatic jump in the last two years: 4,664 and 7,283 in 2004 and 2005, respectively (compared with 670 in 2003). Much of the spike in 2004, and nearly all of it in 2005, however, is the result of complaints regarding non-educational government grant scams,<sup>8</sup> and thus, the raw numbers do not reflect a dramatic growth in financial aid fraud.

To determine the reasons for the recent increase in complaints, the FTC undertook an analysis of complaints in the "scholarship/educational grant" category from 1993 to 2005.<sup>9</sup> The results show that complaints in this category involve both scholarship scams and non-educational government grant scams ("grant scams"), and the ratio between the two has recently changed dramatically. This poses problems with continuing to use the "scholarship/educational grant" category to assess scholarship fraud trends. For example, if in each year the ratio of scholarship complaints to grant complaints remains fairly constant – say, at 70% to 30% – then an increase in the number of complaints in the whole category will always reflect a corresponding increase in scholarship complaints – each 100 new complaints will contain 70 new scholarship complaints. If, on the other hand, the ratio changes from 70/30 to 20/80, then each 100 new complaints in the whole category will contain only 20 scholarship complaints. Changes in the ratio, therefore, make it impossible to accurately compare increases or decreases in the "scholarship/educational grant" category from year-to-year.

The analysis of complaints in the "scholarship/educational grant" category yielded the following results. In the years 1993 through 2001, financial aid related complaints accounted for, on average, approximately 71% of all complaints within the category and grant complaints accounted for, on average, approximately 15% of the total.<sup>10</sup> In 2004, however, grant scam complaints rose sharply in comparison to scholarship scam complaints. That year, financial aid related complaints accounted for only 16% of total complaints, while grants complaints grew to approximately 78%. In 2005 the disparity is even greater, with financial aid related complaints comprising only approximately 3.5% of the total and grants accounting for 93% of all complaints within the category. Starting in 2006, the FTC introduced a new complaint category in Consumer Sentinel, "non-educational grants," to allow financial aid related complaints to be collected and maintained separate from non-educational grants.

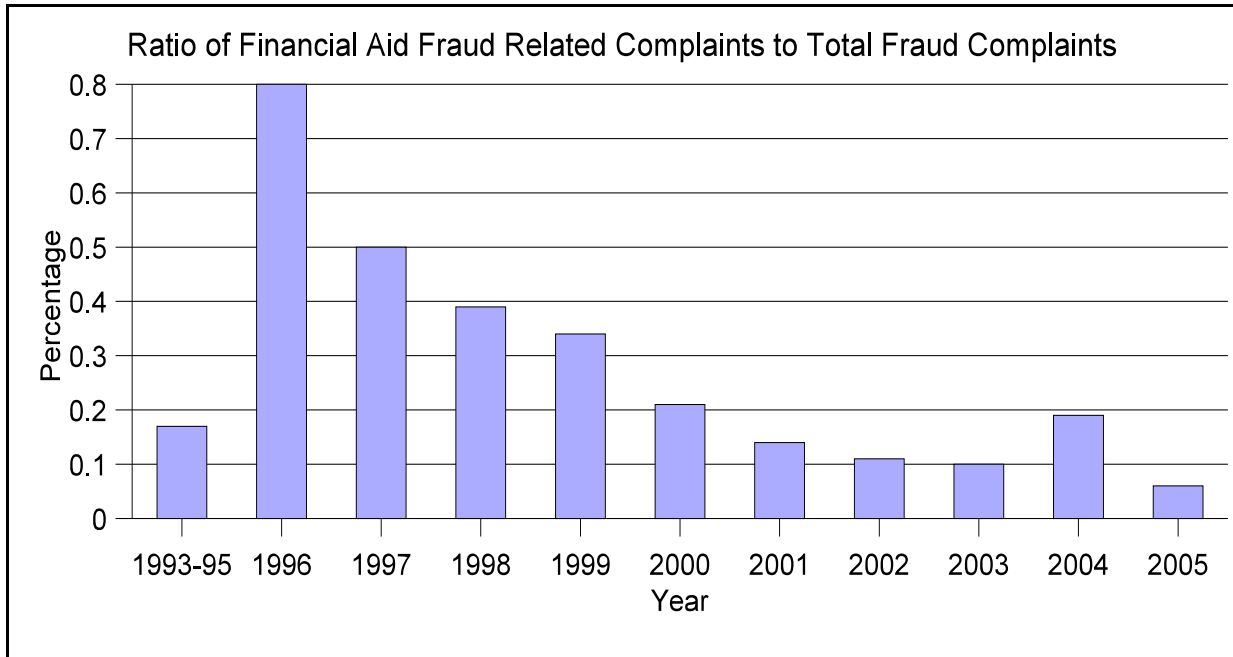
Taking into account this statistical analysis, the following chart shows the number of complaints attributable to financial aid fraud in the FTC's Consumer Sentinel database between 1993 and 2005.<sup>11</sup>





This chart graphically illustrates both that the incidence of scholarship scam complaints has remained historically flat and that there was a spike in such complaints in 2004. Using the data available, the FTC cannot conclusively explain the 2004 spike. The FTC, however, received an influx of complaints that year after suing two companies, The College Advantage and National Student Financial Aid.<sup>12</sup> It is not unusual for complaints to temporarily rise after the FTC announces its law enforcement actions.

To further evaluate the extent of financial aid fraud, it is useful to place the raw numbers of complaints in the context of all complaints received by the FTC on a yearly basis. The following chart shows the ratio of financial aid fraud-related complaints to total fraud complaints.



The chart shows that over time scholarship fraud complaints have diminished as a percentage of all complaints received by the FTC. As discussed in prior Reports, however, raw complaint and inquiry numbers are an imperfect gauge of the extent of fraudulent activities. For example, certain types of fraud may be under-represented whereas in other instances the raw numbers may over-state the extent of the fraud.<sup>13</sup> Nevertheless, the FTC's successful law enforcement and consumer education campaign (begun in 1996), as well as ED's national awareness activities, also may be contributing to the steady decline.

The Consumer Sentinel complaint database is a useful tool not only to estimate the extent of scholarship fraud, but also to assess the nature of scholarship fraud and identify possible targets for law enforcement action. A further review of the complaints indicate that the nature of financial aid fraud has changed over time. Recent complaints mainly involve financial aid consulting firms that promise customized, comprehensive financial planning to maximize the students' financial aid eligibility. These firms often use direct mail and oral presentations to market their services. These complaints differ from those received a decade ago, which concerned telemarketing fraud by bogus scholarship search firms. The FTC also monitors complaints in Consumer Sentinel to identify possible targets for law enforcement action. The FTC typically investigates companies or individuals that generate a sufficient number of complaints to indicate a pattern or practice of deceptive fraudulent conduct. The complaints filed in 2005 were against many different companies, and no one company was the subject of more than a handful of complaints.

## 2. ED's Complaint Monitoring

ED also receives written and telephone complaints about financial aid fraud. However, because ED is not a major clearinghouse for complaints, the number of complaints it receives is small in comparison to the number received by the FTC.

Complaints are submitted via two avenues: the Federal Student Aid Information Center (FSAIC) and the Office of Inspector General (OIG). FSAIC and OIG received a total of 143 scholarship fraud complaints in 2005. This number represents a decrease from the 2004 total of 347. It is unclear whether the decline is due to increased awareness on the part of students, decreased activity by scammers, or a combination of the two.

### **Complaints to ED's FSAIC**

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

In 2005, the correspondence unit received two written complaints about companies charging students for help finding money for college. In both cases, the complainant expressed suspicion of the company and asked ED to determine whether the offer was a scam. The FSAIC responded that ED does not make recommendations about financial aid service providers and suggested that the inquirers contact the Better Business Bureau or a state attorney general's office for further information about the companies in question.

The FSAIC's hotline received 22 calls in 2005 (down from 37 in 2004) from consumers who believed they had been unfairly charged for scholarship information or applications. Complaints regarded solicitations from telemarketers offering "government grants" and asking for bank account information. Callers were referred to the OIG, the FTC, and/or the Better Business Bureau as appropriate.

The FSAIC also receives complaints about websites charging students a fee to submit the *Free Application for Federal Student Aid* (FAFSA).<sup>14</sup> 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, those organizations that ED investigated claim that their fee is for providing advice and counsel to students and families, not for helping 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 whom 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, and numbers of complaints regarding these companies are not included in this Report.

## 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 or directly to OIG field offices across the country. OIG staff reported that there were 119 complaints in 2005 (a steep decline from 310 in 2004) regarding telemarketers offering "government grants." As appropriate, complaints were investigated by OIG and/or forwarded to the FTC. OIG's investigations of these complaints were ongoing as of the end of 2005.

ED's OIG also investigates cases of fraud, waste, or abuse involving ED's federal student aid funds. Among the complaints received in 2005 were 167 reports of individuals fraudulently using the identity of students to obtain federal aid. During 2005, OIG worked with ED's Federal Student Aid office to establish a process to correct the federal student aid records of identity theft victims.

### C. FTC's Financial Aid Fraud Prevention Program

As mentioned above, the FTC's Project Scholarscam combines law enforcement<sup>15</sup> 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.<sup>16</sup> The FTC has refunded to consumers or disgorged to the U.S. Treasury more than \$2.1 million.<sup>17</sup> Although it has not announced any new law enforcement actions since last year's Report, the FTC continues to monitor aggressively the scholarship industry.

### 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. Donald J. Brun and Tammy Hermann*, Case No. 05-CR-238 (E.D. Wis.)

On September 2, 2005, both defendants pleaded guilty to making false statements to ED in violation of 18 U.S.C. § 1001 and failing to refund student loan funds in violation of 20 U.S.C. § 1097(a). Donald Brun was the president of MBTI Business Training Institute, a private, for profit, post-secondary institution located in Milwaukee, Wisconsin, and was responsible for the operation of MBTI. Tammy Hermann served as Financial Aid Director of MBTI and was responsible for administering ED financial aid programs. Both defendants falsified certifications requesting reimbursements of Pell, Federal Family Education Loan (FFEL), and Federal

Supplemental Education Opportunity Grants Program (SEOG) funds. Hermann illegally disbursed student financial aid funds to MBTI. Brun failed to return Direct Loan, FFEL, Pell, and SEOG funds that MBTI was not entitled to keep. Hermann was sentenced to 30 months probation. Brun was sentenced in December 2005 to 24 months imprisonment and a \$20,000 fine. The loss was \$577,848.00.

- *United States v. Sharon Lee Walker, Bobby Poke, Sr., Bessie Ola Johnson, Evelyn Walker, Betty Walker and Pamela J. Walker*, 1:04-cr-00093-LRR (N.D. Iowa)

These six defendants in a long-distance learning scheme all pleaded guilty to at least one count under 20 U.S.C. § 1097, and were sentenced in June 2005. The defendants utilized 41 separate identities to obtain fraudulently over \$400,000 in student financial assistance. On June 14, 2005, defendant Sharon Walker, the leader of this conspiracy, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud and one count of Financial Aid Fraud to 87 months imprisonment and \$414,371.99 in restitution to ED. On April 27, 2005, defendant Poke, Sharon Walker's brother, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud to 21 months imprisonment and \$141,983.50 in restitution to ED. On May 12, 2005, defendant Johnson, Sharon Walker's mother, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud to 5 years of probation with conditions including 6 months in home detention and \$38,910.62 in restitution to ED. On May 18, 2005, defendant Evelyn Walker, Sharon Walker's sister, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud to 27 months imprisonment and \$77,882.56 in restitution to ED. Also on May 18, 2005, defendant Betty Walker, Sharon Walker's sister, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud to 5 years of probation and \$11,250.00 in restitution to ED. On June 2, 2005, defendant Pamela J. Walker, Sharon Walker's sister, was sentenced on one count of Conspiracy to Commit Financial Aid Fraud to 5 months imprisonment followed by 5 months in community confinement and \$10,730.00 in restitution to ED.

- *United States v. Tiffany Jenkins*, 6:04-cr-00032-WMS (E.D. Tex.)

Tiffany Jenkins pleaded guilty to a one count Information charging her with scholarship fraud, in violation of 20 U.S.C. 1097(a). The United States requested and the Court imposed the Act's sentencing enhancement, adding two levels to Jenkins' base offense level. As a result of the enhancement, on November 1, 2004, Jenkins received a sentence of 18 months imprisonment and \$77,005.62 in restitution to 31 victims.

- *United States v. Shane Bybee*, 6:03-cr-06152-DGL-JWF (W.D.N.Y.)

A 26 count indictment charged that from April 2002 thru July 24, 2003, Bybee engaged in bank fraud and student loan fraud. Counts 1-12 charged Bybee with submitting 12 fraudulent Stafford Loan Applications to Citibank requesting \$220,000. Counts 13-26 charged Bybee with submitting 1,600 false and fraudulent student loan applications, requesting approximately \$29,600,000 from Citibank, and intending to submit an additional 770 false and fraudulent

student loans for approximately \$14,245,000. Bybee pled guilty on November 9, 2004 to count 14 and was sentenced to 37 months imprisonment and restitution of \$161,505.

- *United States v. Linda Johnson, et al.*, 2:02-cr-80959-PDB (E.D. Mich.)

In 2005, multiple defendants pleaded guilty to charges, including financial aid fraud in violation of 20 U.S.C. § 1097, arising out of a multiple count indictment issued in January 2003. The defendants were owners, employees, or students of The Training Center in Dearborn, Michigan. The defendants were charged in a scheme to defraud ED by falsifying General Education Certificates, high school diplomas, results of qualifying tests, and certifications of foreign high school education, and also to alter the records of students enrolled in ineligible programs to qualify otherwise ineligible students for federal financial assistance. The defendants received sentences ranging from 24 months probation to 41 months imprisonment, and defendant Malmoud Younis also received a fine of \$125,000 and was ordered to pay \$793,225 in restitution.

#### 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. Rob Kelley, *College Costs Going Nowhere But Up*, CNN/Money.com, Oct. 18, 2005, [http://money.cnn.com/2005/10/17/pf/college/college\\_costs/index.htm](http://money.cnn.com/2005/10/17/pf/college/college_costs/index.htm) (“As they have for the past ten years, college costs rose faster than the rate of inflation this year”); The College Board, *Trends in College Pricing 2005* (2005), available at [http://collegeboard.com/prod\\_downloads/press/cost05/trends\\_college\\_pricing\\_05.pdf](http://collegeboard.com/prod_downloads/press/cost05/trends_college_pricing_05.pdf) (stating that over the past five years, tuition and fees at public four-year colleges and universities increased by 40 percent in inflation-adjusted dollars); *Fact Sheet: The Skyrocketing Cost of Higher Education*, House Comm. on Educ. and the Workforce, 108th Cong. (2003), [http://www.house.gov/ed\\_workforce/issues/108th/education/highereducation/factsheetcost101003.htm](http://www.house.gov/ed_workforce/issues/108th/education/highereducation/factsheetcost101003.htm) (noting that since 1981, “the cost of a public four-year college education has increased by 202 percent, while the Consumer Price Index has gone up only 80 percent”).
2. The inaugural Report can be found at [www.ftc.gov/os/2002/05/scholarshipfraudreport2001.pdf](http://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>. The fourth Report can be found at <http://www.ftc.gov/reports/050503scholarshipfraud.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 2005 are not yet fully available. A search of the fiscal year 2004 sentencing database, however, disclosed no instance in which the U.S.S.G. § 2B1.1(b)(7)(D) enhancement was applied.  
  
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 2005.
5. The title “TRIO” refers to a group of programs operated by post-secondary schools and nonprofit organizations to increase awareness among secondary school students of opportunities for post-secondary education and to support students enrolled in post-secondary education. The programs are called “TRIO” 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 Programs, Student Support Services, Talent Search, Training Program for Federal TRIO Programs, TRIO Dissemination Partnership, Upward Bound, and Upward Bound Math/Science.

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

7. Consumer Sentinel is a secure, password-protected complaint database designed to allow law enforcers to share data about fraud. Consumer Sentinel now contains almost 3 million fraud and identity theft complaints and is accessible to more than 1,500 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: law enforcement alerts about companies currently under investigation; information to help agencies coordinate effective joint action; an index of 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 *Consumer Fraud and Identity Theft Complaint Data – January - December 2005*, issued by the FTC in January 2006 and available online at <http://www.consumer.gov/sentinel/pubs/Top10Fraud2005.pdf>.

8. The FTC has taken action against companies that purport to help consumers obtain grants that are not specifically for scholarships or educational purposes. For example, the FTC, in conjunction with the Louisiana Department of Justice, shut down a fraudulent grant scheme in March 2004. *FTC v. US Grant Resources, et al.*, Civ. No. 04-0596 (E.D. La. Nov. 15, 2004). The stipulated final order that resolved this action bars the defendants from selling grant services in the future and required them to pay over \$500,000 in consumer redress. The FTC halted a similar scheme in 2003 in *FTC v. Grant Search, Inc., et al.*, Civ. No. 02-4174-CV-C-NKL (W.D. Mo. Jul. 7, 2003), and obtained a stipulated order that banned the defendants from selling any grant services and required them to pay \$296,000 in consumer redress.

9. The FTC reviewed a random sample of Consumer Sentinel complaints in the “scholarship\educational grants” category for each of the years 1993 through 2005 and sorted them into financial aid related complaints (including grants to assist in the financing of post-secondary education), non-educational grants related complaints, and other complaints (including complaints against student loan processors, debt collectors collecting on defaulted student loans, and diploma mills and other unaccredited post-secondary educational institutions). For the years 1996 through 2003, the FTC selected a sample size of approximately 100 complaints by taking every Nth complaint, where  $N = \text{total complaints in that year} \div 100$  and rounded to the nearest whole number. Due to the low number of complaints, the FTC combined the years 1993 through 1995 into one population, from which the sample was taken using the method described above. Due to the high number of complaints in 2004 and 2005, the FTC selected the samples by month as follows. For each month, the FTC selected a sample size of approximately 9 complaints taking every Mth complaint, where  $M = \text{total complaints in that month} \div 9$  and rounded to the nearest whole number. The FTC then combined the monthly samples to give a total yearly sample size of approximately 108. The FTC selected a sample size of approximately 100 in order to achieve an error level of under 10% at a 95% confidence interval.



The following table includes the results of the analysis. The numbers and percentages of “other” complaints are not included and therefore the combined percentages of financial aid complaints and grants complaints does not equal 100%.

Year	Sample Size	Financial Aid Related Complaints	% Financial Aid Related Complaints	Grants Related Complaints	% Grants Related Complaints	Error Level at 95% Confidence Interval
1993-95	57	38	66.7%	13	22.8%	9.2%
1996	76	67	88.2%	8	10.5%	7.9%
1997	100	80	80.0%	13	13.0%	6.6%
1998	100	73	73.0%	11	11.0%	8.2%
1999	113	78	69.0%	11	9.7%	7.9%
2000	100	60	60.0%	20	20.0%	8.4%
2001	110	63	57.3%	19	17.3%	7.6%
2002	108	54	50.0%	36	33.3%	8.4%
2003	100	49	49.0%	27	27.0%	9.0%
2004	108	25	23.2%	75	69.4%	9.3%
2005	114	4	3.5%	106	93.0%	9.1%

Because the percentage of grants related complaints increased significantly in 2004, the FTC also analyzed the 2004 complaints on a quarterly basis. The FTC did so by combining the monthly sampling data discussed above by quarter. The following chart shows the quarterly analysis.

Quarter	Total Scholarship/Educational Grants Complaints	% Financial Aid Complaints	% Grants Complaints
2004 Q1	592	55.6%	37.0%
2004 Q2	662	18.5%	66.7%
2004 Q3	1418	11.1%	85.2%
2004 Q4	1992	7.4%	88.9%

The quarterly analysis shows that the increase in grants complaints began sometime in the second quarter. This increase also corresponds to the increase in total complaints in the “scholarship\educational grants” category. Because the upsurge in grants complaints occurred in the middle of 2004, the percentages of financial aid and grants complaints derived on an annual basis do not accurately reflect the distribution of financial aid and grants complaints. Financial aid complaints are over-represented and grants complaints are under-represented. Therefore, the average of the quarterly percentages (weighted by the percentage of complaints in the quarter to the complaints in the year) provides a more accurate measure of the percentage of financial aid and grants complaints. Using this method, the percentage of financial aid complaints in 2004 was 16.2%, and the percentage of grants complaints in 2004 was 78.0%.

10. A review of the data in note 9 shows that this data is relatively consistent from year to year during this time period.

11. Applying the statistical analysis results discussed in note 9 to the total number of complaints yields the following results.

Year	Total Scholarship/Educational Grants Complaints	Complaints attributable to Financial Aid Fraud	Total Fraud Complaints	Percentage of Financial Aid Fraud to Total Fraud
1993-95	114	76	45,765	0.17
1996	151	133	16,588	0.80
1997	182	146	29,069	0.50
1998	337	246	62,840	0.39
1999	420	290	85,248	0.34
2000	380	228	107,910	0.21
2001	322	184	134,136	0.14
2002	517	259	241,498	0.11
2003	670	328	327,479	0.10
2004	4664	757	406,195	0.19
2005	7283	256	431,124	0.06

12. In 2004, there were 359 complaints against The College Advantage, d/b/a College Funding Center, and 81 complaints against National Student Financial Aid. Prior years’ Reports discuss

in detail the FTC's law enforcement actions against these companies. The FTC obtained settlements with the College Funding Center defendants, pursuant to which the defendants paid over \$1.4 million in consumer redress and were required to post a \$1 million performance bond prior to any future marketing of college financial aid assistance programs. In August 2003, the FTC obtained a settlement with the National Student Financial Aid defendants that required them to pay \$115,000 in consumer redress. Although the settlement also required them to make affirmative disclosures in future sales presentations, in March 2005, the court found the defendants in contempt for failing to make those disclosures.

13. 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. These numbers could be skewed for several reasons, including: (1) some consumers may have complained directly to the company or to law enforcement authorities that do not input their complaints into the Sentinel database; (2) some financial aid scams that operate on the Internet are relatively inexpensive, and consumers often do not complain when the financial injury is low; (3) increases in the number of complaints may reflect an increase in the number of law enforcement and consumer protection agencies referring complaints to the Consumer Sentinel database; and (4) increases in the number of complaints may reflect greater consumer awareness of the fraud and how to report it.

14. To apply for federal student financial aid, and to apply for many state student aid programs, students must complete the FAFSA. ED uses 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.

15. 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.

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

17. 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.

