

**Law Offices of Nancy G. Krop**  
1534 Plaza Lane, Ste. 322  
Burlingame, California 94010  
tel. 650/344-5306 fax 650/344-5307  
nkrop@kroplaw.com

**U.S. DEPARTMENT OF JUSTICE FILES AMICUS BRIEF IN SUPPORT  
OF LAWSUIT AGAINST UNIVERSITY OF PHOENIX**

**JANUARY 11, 2005, SAN FRANCISCO, CA** – The United States Department of Justice filed an amicus brief in support of the False Claims Act *qui tam* lawsuit pending in the Ninth Circuit against the University of Phoenix (“UOP”) “to urge reversal of the judgment dismissing the relators’ claims.”

The lawsuit, filed by two whistleblower enrollment counselors (the "relators"), alleges that UOP knowingly and fraudulently pays its counselors commissions for enrolling students, in violation of federal law, Title IV of the Higher Education Act. The lawsuit alleges that UOP fraudulently obtained over \$3 billion from the United States Department of Education (“DOE”).

The whistleblowers allege that UOP every year promises, in an annual agreement filed with the DOE, to comply with the Title IV commission prohibition, while knowing that such promises are false because it pays counselors based solely on enrollments. The lawsuit details that UOP openly boasts to its employees about its “smoke and mirrors” used to mask its illegal compensation scheme so that it may “fly under the radar” of the DOE.

In its amicus brief, the United States emphasizes that the governing federal law “makes clear that the initial and continuing eligibility of schools to obtain Title IV funding depends on a requirement that the schools not pay certain types of commissions.” “There can no doubt that compliance with the incentive compensation ban is a ‘prerequisite to obtaining a government benefit’” notes the United States in support of the lawsuit.

The United States confirms that the lawsuit should proceed under the False Claims Act, explaining that “the False Claims Act broadly prohibits the knowing use of false statements . . . to obtain government benefits.”

As Nancy Krop, one of the whistleblowers' attorneys explains, “this lawsuit is fundamental to stop UOP from enrolling unqualified students, just to receive the federal student aid funds from the federal government.” UOP requests the Title IV funds on behalf of its students. Given that UOP’s tuition exceeds the amount of the Title IV grant or loan, UOP retains the entire amount received, crediting a student for tuition paid. During the DOE investigation, counselors confirmed that “they are pressured by management to enroll students who are not qualified” just to ensure the flow of Title IV student aid funds into the UOP bank accounts.

Daniel Bartley, also one of the attorneys for the whistleblowers, states that “the support of the Department of Justice is very much appreciated, following the Fall 2004 confirmation by the United States Department of Education of the whistleblowers’ allegations that UOP knowingly and fraudulently violates the incentive compensation ban, in a 45-page program review report released Fall 2004.”

Whistleblowers’ attorneys are Nancy G. Krop, of Burlingame, California (650/344-5306; [nkrop@kropaw.com](mailto:nkrop@kropaw.com)) and Daniel R. Bartley, of Novato, California (415/847-2060; [DanielBartleyLaw@aol.com](mailto:DanielBartleyLaw@aol.com)).