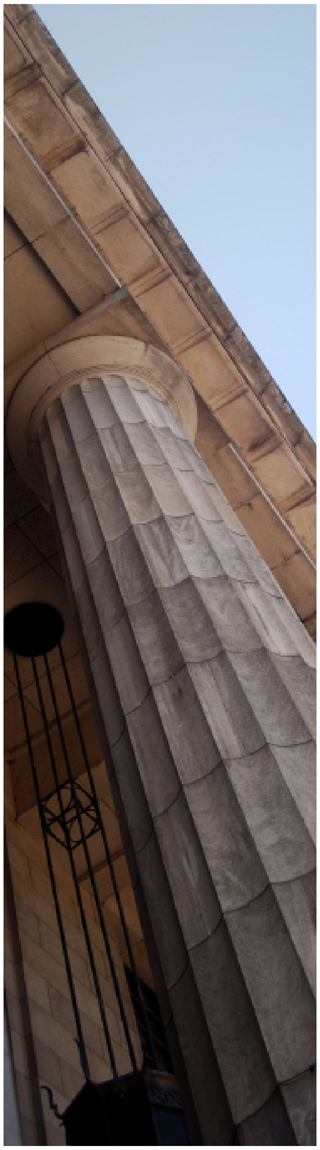
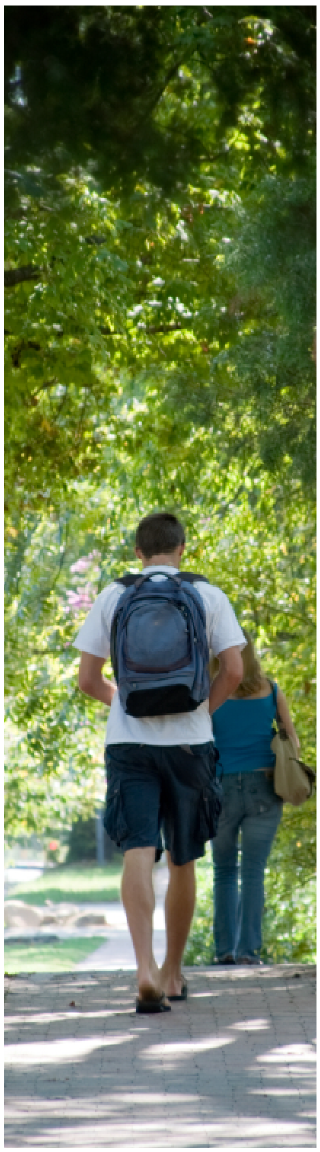
College Scholarship Fraud Prevention Act of 2000
Annual Report to Congress

May 2009

Department of Justice

Department of Education

Federal Trade Commission

COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000
ANNUAL REPORT TO CONGRESS

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Submitted by:
Department of Justice
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Executive Summary

Every year, millions of high school graduates seek 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 1, 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 financial aid 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, flyers, posters, and bookmarks, ED and the FTC are disseminating information to help consumers avoid falling prey to financial aid 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 is available from ED, high school counselors, and college financial aid administrators when applying for aid.

Complaints regarding financial aid 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, financial aid-related complaints have diminished as a percentage of all complaints received by the FTC. A review of these complaints indicates that the nature of financial aid fraud has changed over time, shifting from scholarship search services to financial aid consulting services.

Another recent concern relates to student loan lenders providing inducements to postsecondary schools to include the lenders on "preferred lender" lists. Because students frequently choose lenders from those lists, ED provides tips to students on choosing a lender, in part through "Student Loans: Avoiding Deceptive Offers," developed and published jointly with the FTC in 2008.

This year, the DOJ brought numerous actions against individuals engaged in financial aid fraud. The FTC, DOJ, and ED's Office of Inspector General continue to monitor complaints to determine if law enforcement action is necessary. Finally, the FTC and the 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.[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 1, 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 financial aid 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 seeking financial aid for higher education.

The Department of Justice (DOJ), ED, and the FTC prepared this Report according to the Act's directive. Building on previous reports,[2] this Report provides an update of the activities of the DOJ, ED, and the FTC to combat financial aid fraud and an assessment of the nature and quantity of financial aid fraud during Calendar Year 2008.

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)[3] of the Sentencing Guidelines to add a provision raising the relevant "offense level" by two levels if the crime involved misrepresentation to a consumer in connection with obtaining, providing, or furnishing financial assistance for an institution of higher education. There were no cases reported in Fiscal Year 2008 (FY 2008) in which the sentencing enhancement was imposed.

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 education products are a brochure called "Save Your Money, Save Your Identity" and a web page called "Looking for Student Aid." Both products list free resources that provide information about financial aid and warn students about financial aid scams. As discussed in more detail in prior Reports, ED also publishes booklets, fact sheets, and a video that provide fraud prevention information to consumers. Distribution of print publications and videos with scam warnings totaled approximately 6.7 million copies in 2008. Visits to ED's www.studentaid.ed.gov website, which hosts the online versions of the publications, numbered more than 10.3 million in 2008. ED's Office of Inspector

General also hosts a fraud awareness website with scholarship scam information. The site, found at www.ed.gov/misused, registered more than 111,000 visits in 2008.

ED's outreach activities include numerous presentations to students, parents, counselors, and college financial aid administrators. Staff members make an effort to include, at a minimum, a brief warning about financial aid fraud in each workshop.

In order to stay aware of issues concerning various audiences, ED staff members monitor listservs directed to professionals (such as high school or TRIO[4] 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 a total of more than 5,000 listserv members on five listservs.

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 consumer education campaign to help students, parents, educators, and financial aid administrators identify and avoid financial aid scams. The FTC's consumer education campaign includes a package of consumer education materials, a website (www.ftc.gov/scholarshipscams), as well as a series of flyers, posters, and bookmarks. The website contains comprehensive information about financial aid 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 financial aid scams.

To reach the largest number of at-risk consumers, the FTC developed partnerships with public and private organizations, including the National Association of College Admissions Counselors. From October 1996 through December 2008, the FTC and its partners distributed over 3.5 million print publications, and the FTC had more than 1.1 million visits to its financial aid scams website. In 2008, the FTC distributed over 50,700 print publications and had more than 114,250 visits to the website.

The FTC also continued to provide print publications to students and their parents through local school districts' college and career fairs. The FTC also conducts outreach directly to high school students and their parents. For example, the FTC included materials on financial aid fraud in presentations to students as part of its High School Financial Literacy project. Moreover, the media often are interested in financial aid scams. Accordingly, the FTC staff frequently provides, through the media, tips for consumers to avoid these scams.

Continuing the partnership between ED and the FTC, ED's 2009-10 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 financial aid scams. In addition, ED's www.studentaid.ed.gov website and the FTC's financial aid scams microwebsite, www.ftc.gov/scholarshipscams, are cross-linked to each other.

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 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: (1) 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; (2) that the advertiser has extremely high success rates, including "testimonials" from satisfied customers; and (3) that the advertiser is endorsed or approved by a federal or state agency, a chamber of commerce, or a Better Business Bureau.[5] 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.

ED notes that the College Scholarship Fraud Prevention Act was designed at a time when scholarship scams were prevalent; this Report addresses the ongoing efforts to minimize such scams. In recent years, however, other financial aid related consumer protection issues, such as the potential impact of preferred lenders on student borrowers and the charging of fees for assistance completing the *Free Application for Federal Student Aid* (FAFSA), have increasingly become the focus of attention of students, parents, schools, and the general public. ED and Congress have taken steps to attempt to avoid financial aid related abuses of individual students.

On November 1, 2007, ED published regulations, which became effective on July 1, 2008, to address the practice by colleges of steering students to preferred lenders that had provided financial benefits to the colleges or college officials.[6] The regulations are designed to make more transparent the relationships between schools and lenders making federally reinsured education loans. The regulations require colleges that provide lists of preferred lenders to their students: (1) to make clear that students need not borrow from the listed lenders; (2) to disclose the method used to select preferred lenders; (3) to include a minimum number of unaffiliated lenders on any preferred lender list; (4) to provide information that permits students to compare the terms offered by the listed lenders; and (5) to exclude lenders that offered financial benefits to the college in return for inclusion on the list.

In 2008, ED and FTC collaborated on a publication, "Student Loans: Avoiding Deceptive Offers," to alert potential borrowers to deceptive lending practices. The publication is available through the FTC's consumer protection website and through ED's www.studentaid.ed.gov website.

Moreover, the Higher Education Opportunity Act (HEOA), P.L. 110-315, enacted on August 14, 2008, also emphasizes consumer awareness and education. As well as additional protections related to preferred lenders, the HEOA contains strong protections for students and their families related to persons and entities providing student aid consultative or preparation services. The new HEOA provisions require that preparers disclose their identity on the FAFSA and that they provide notice that the FAFSA is a free form and that any websites used by the preparer contain a link to ED's FAFSA web page. The HEOA also contains restrictions on the use of an individual's FSA PIN (a personal identification number used to sign an applicant's FAFSA) by anyone other than the applicant.

To the extent possible, ED, the FTC, and other agencies will continue to work together to educate and protect students and their families.

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[7] database to assess the current status of financial aid fraud, while ED reviewed complaints received by the Federal Student Aid Information Center and other call centers, its Office of Inspector General, and its Federal Student Aid Ombudsman.

1. FTC Complaint Database

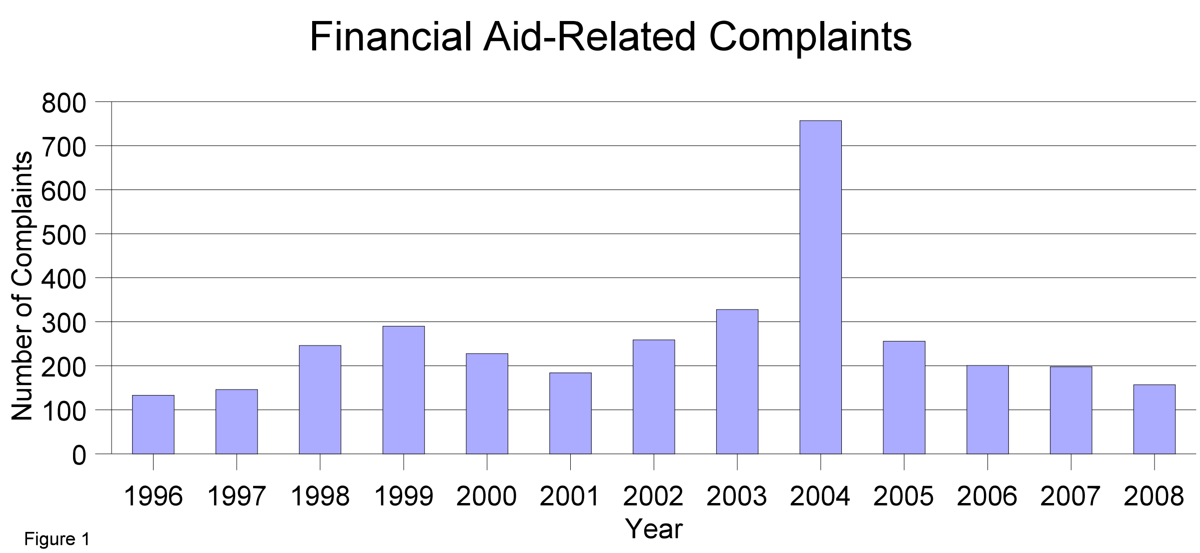

Figure 1

The FTC has been monitoring consumer complaints related to financial aid fraud for over a decade. Figure 1 shows the number of complaints attributable to financial aid fraud in the FTC's Consumer Sentinel database between 1996 and 2008.[8] Between 1996 and 2008, the number of financial aid-related complaints remained relatively flat, with a spike in 2004,[9] and a decline in complaints since then.

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. Figure 2 shows the ratio of financial aid-related complaints to total fraud complaints.

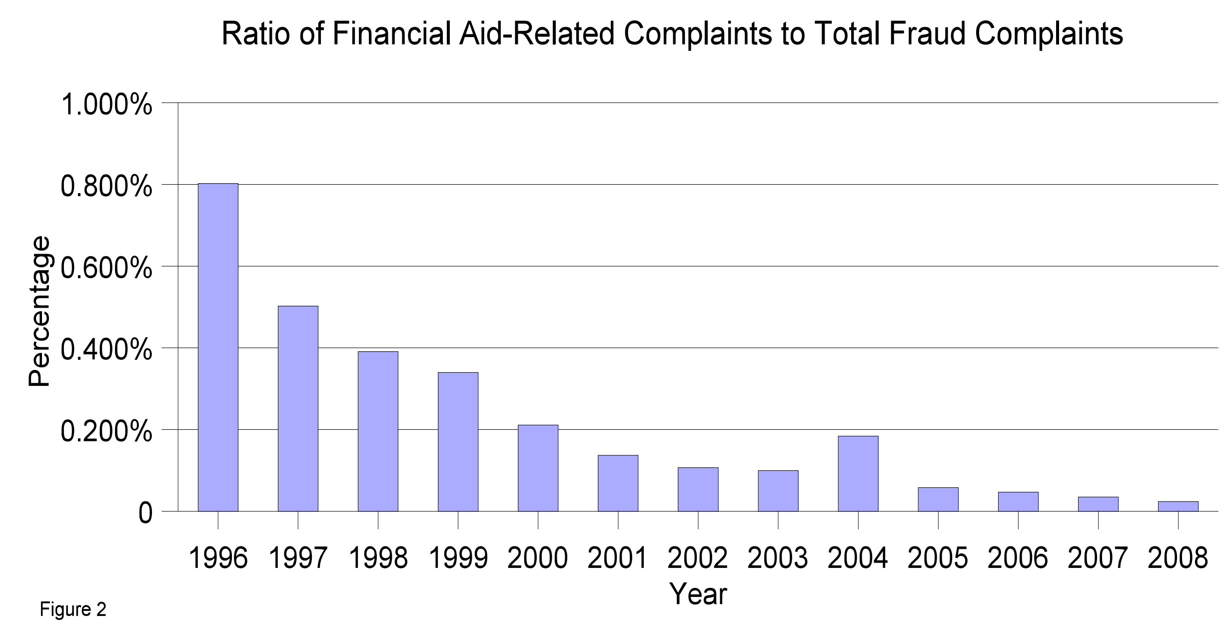

Figure 2

With the exception of the previously discussed anomaly in 2004, financial aid-related complaints have diminished as a percentage of all complaints received by the FTC since 1996. 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.[10] Nevertheless, the FTC's successful law enforcement and consumer education campaign (begun in 1996), as well as ED's national awareness activities, may be contributing to the proportionally low complaint figures.

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 financial aid fraud and identify possible targets for law enforcement action. A review of the complaints indicates that the nature of financial aid fraud has changed over time. A decade ago, the majority of complaints received by the FTC concerned telemarketing fraud by bogus scholarship search firms. Recent complaints, however, 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.

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 2008 were against many different companies, and the FTC will continue to monitor these and other companies for possible law enforcement actions.

2. ED's Complaint Monitoring

ED also receives written and telephone complaints about financial aid fraud. However, the number of complaints ED receives is small in comparison to the number received by the FTC and is, in general, associated with a set of experiences at a school or dissatisfaction with a process or obligation.

Scholarship fraud complaints are submitted via two primary avenues: the Federal Student Aid Information Center (FSAIC) and the Office of Inspector General (OIG). In 2008, the FSAIC and OIG received a total of 17 fraud complaints relevant to this report. This number represents a decrease from the 2007 total of 54. 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.

Although the Federal Student Aid Ombudsman and other call centers cannot provide statistics on numbers of complaints about financial aid scams, they can affirm that they do receive such complaints occasionally. These call centers refer callers to the FSAIC, OIG, or FTC, as appropriate.

a. Complaints to ED's FSAIC

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

In 2008, the correspondence unit received one written complaint regarding a scholarship service. The complainant stated that she visited a site that appeared in the results of her scholarship search on ED's www.studentaid.ed.gov site. (ED offers a broad search tool as a service on its website but does not vet the thousands of scholarships included in the results.) The complainant indicated that the site she visited claims to give away scholarships monthly but requires personal information in order to do so. She was concerned that the scholarship site would spam her with advertisements or sell her information to spammers. She also stated that the site requires the visitor to accept a certain number of sales offers before the visitor can qualify for one of the monthly scholarships. The FSAIC responded that ED does not make recommendations about specific scholarship services and provided the Web address for the FTC's online complaint form.

The FSAIC's hotline received three calls in 2008 (down from eight in 2007) from consumers who believed they had been targets of financial aid scammers. In all three cases, the alleged scammer identified himself or herself as being associated with ED or "from FAFSA" — even (in one case) when referring to a non-ED website. One complainant was told she had won a grant and was asked for her bank account information so the funds could be released to her. One was told she had made a student loan payment that was not necessary; she also was asked for bank account information for the release of funds. The third was told that there had been a credit card error on www.easyaid.com (a non-ED website) and that her correct card information was needed. All three complainants refused to divulge personal information. As appropriate, the FSAIC provided FTC contact information.

The FSAIC also receives complaints about websites charging students a fee to submit the FAFSA.[11] The HEOA added a new provision that allows an applicant to use a preparer for consultative or preparation services to complete a paper or electronic FAFSA. If an applicant uses a preparer for consultative or preparation services for the completion of a FAFSA for which a fee is charged, the preparer must include, at the time the FAFSA is submitted to ED, the preparer's name, address or employer's address, Social Security number or employer identification number, and organizational affiliation on the applicant's form and is subject to the same penalties as an applicant for purposely giving false or misleading information in the application. A preparer must clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA is a free form that may be completed without professional assistance via paper or electronic versions provided by ED. The preparer must also include this information in any advertising. If the preparer advertises or provides any information or services through a website, the preparer must include on the website a link to ED's website that provides the electronic version of the FAFSA and not produce, use, or disseminate any other form for the purpose of applying for federal student aid other than the FAFSA developed by ED.

ED is currently considering how to implement these new provisions and will undertake discussions with the FTC and DOJ about consumer awareness and education, as well as about enforcement of the new provisions. However, the HEOA does not specify sanctions for violations of these provisions, and does not include express enforcement authority.

b. Complaints to ED's Office of the Inspector General

The OIG maintains a hotline (1-800-MIS-USED) and email address (oig.hotline@ed.gov) for complaints relating to fraud, waste, and abuse involving ED's funds. Complaints also may be submitted by mail, by fax (202-245-7047), via the http://www.ed.gov/misused website or directly to OIG field offices across the country. OIG staff reported that there were 13 complaints in 2008 (a decrease from 45 in 2007 — some of which resulted in guilty pleas to tax evasion charges) regarding telemarketers offering "government grants." These complaints were evaluated for investigative follow-up or referral to the FTC as appropriate. OIG's investigations were ongoing as of the end of 2008.

C. FTC's Financial Aid Fraud Prevention Program

As mentioned above, the FTC's Project Scholarscam combines law enforcement[12] with consumer education to stop fraudulent purveyors of so-called scholarship or financial aid 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 or financial aid-related services. Many of the orders also require the defendants to post performance bonds before engaging in telemarketing.[13] The FTC has refunded to consumers or disgorged to the U.S. Treasury more than $2.1 million.[14]

D. DOJ's Financial Aid Fraud Prevention Program

Since last year's Report, several individuals charged with fraud in the offering or obtaining of higher education financial aid, were prosecuted, convicted, or sentenced. A sampling of case summaries from FY 2008 follows, representing a broad spectrum of higher education financial aid fraud cases pursued by DOJ. These cases include instances where fraudulent representations were made in the offering of higher education financial aid, where the identities of unknowing victims or co-conspirators were submitted on financial assistance applications to fraudulently obtain financial aid, and where defendants fraudulently obtained substantial amounts of higher education financial assistance. In preparing this report, the DOJ Executive Office for United States Attorneys (EOUSA) surveyed the 94 United States Attorneys' Offices, but did not identify any instances where the two-level sentencing enhancement, Section 2B1.1(b)(8)(D) of the Sentencing Guidelines, was requested or imposed, in FY 2008. Case developments which occurred within FY 2008 are included in the case summary. If there were any case developments which occurred after FY 2008, they are described in endnotes.

- *United States v. Wanda Gaither*, Case No. 5:07-cr-00416-RDP-HGD-1 (N.D. Ala.)

Defendant Gaither, the owner of a beauty school, was charged with executing a tuition payment scheme in which the school obtained federal financial assistance in the form of Pell Grants for students who were not qualified for the Pell Grant program and used the grants to pay school tuition. A thirty-three count superseding indictment was filed in April 2008. The defendant pleaded guilty to one count of wire fraud, in violation of 18 U.S.C. § 1343, and one count of financial aid fraud, in violation of 20 U.S.C. § 1097(a), and in August 2008, was sentenced to 30 months' imprisonment, followed by a period of supervised release of 30 months, a special assessment of $200, and restitution in the amount of $107,527. This case was investigated by ED's Office of Inspector General.

- *United States v. Ronald W. Shepard,* Case No. 4:07-cr-00414-NKL-1 (W.D. Mo.)

Defendant Shepard, the owner of a business that assisted individuals in obtaining student financial assistance, was charged with executing a scheme in which he prepared fraudulent federal tax returns and federal assistance applications that were submitted to educational institutions to obtain federal student assistance. In December 2007, defendant Shepard was indicted on 12 counts of tax preparer fraud, and five counts of student financial aid fraud, in violation of 20 U.S.C. § 1097(a).[15] This case was investigated by ED's Office of Inspector General and the Internal Revenue Service.

- *United States v. Yevsey Lekhtman, Simon Benimetsky, Roman Dudkin and Yelena Raykhman*, Case No. 1:08-cv-00508-CPS (E.D.N.Y.)

Defendant Lekhtman operated a training facility in Brooklyn, New York, that entered into state and federal agreements to offer federal Pell Grants and New York State tuition assistance program grants to qualified students. A superseding indictment returned in August

2008 charged the defendant and others with conspiracy, visa fraud and with executing a scheme in which federal and state student assistance funds were obtained by the school on behalf of individuals who were not attending or enrolled in the school, in violation of 18 U.S.C. §§ 371 and 1546, and 20 U.S.C. § 1097(a). This case was investigated by ED's and the Department of Labor's Offices of Inspector General and the Federal Bureau of Investigation.

- *United States v. Jennifer Sherman*, Case No. 1:07-cr-00611-KMO-1 (N.D. Ohio)

Defendant Sherman was indicted in 2007 on charges stemming from a scheme in which she submitted multiple applications for admission and student aid to Lakeland Community College on behalf of numerous friends and relatives who never intended to attend the college. When those individuals failed to attend, the college refunded the balance of their student loan proceeds to the custody of the defendant, who cashed the refund checks and retained the proceeds. In March 2008, the defendant pleaded guilty to one count of mail fraud, in violation of 18 U.S.C. § 1341, and one count of student assistance fraud, in violation of 20 U.S.C. § 1097(a).[16] The defendant admitted to causing losses of $188,995. This case was investigated by the ED's Office of Inspector General and the Lakeland Community College Police Department.

- *United States v. Pearl Dunlap*, Case No. 1:08-cr-00216-WWC-1 (M.D. Pa.)

In September 2008, defendant Dunlap pleaded guilty to a felony violation of 18 U.S.C. § 3 (accessory after the fact) stemming from a scheme and conspiracy to use false identities to obtain federally insured student loans in violation of 20 U.S.C. § 1097(a). This case was investigated by the ED's Office of Inspector General and the Pennsylvania State Police.[17]

- *United States v. Barbara Romagnino*, Case No. 4:07-cr-00363-JEJ-1 (M.D. Pa.)

In September 2007, defendant Romagnino was charged in a two-count indictment arising out of an identity theft scheme in which he applied for federally insured student loan benefits using the identities of innocent third parties. In January 2008, the defendant pleaded guilty to a felony violation of 20 U.S.C. § 1097(a) and, in September 2008, was sentenced to a term of imprisonment of five months, followed by a period of three years' supervised released, a special assessment of $100, and restitution in the amount of $46,937.55. This case was investigated by ED's and the Social Security Administration's Offices of Inspector General and the Pennsylvania State Police.

- *United States v. Donna Stockton*, Case No. 1:08-cr-00157-JAS (M.D. Pa.)

In May 2008, defendant Stockton pleaded guilty to misdemeanor violations of 18 U.S.C. § 371 and 20 U.S.C. § 1097(a),[18] stemming from her permitting another individual to fraudulently use the defendant's identity to apply for student aid. This case was investigated by ED's Office of Inspector General and the Pennsylvania State Police.

- *United States v. Esther Elizabeth Reed*, Case No. 6:07-cr-01110-HMH-1 (D.S.C.)

Defendant Reed pleaded guilty in August 2008 to four counts of a superseding indictment filed in April 2008, including one count charging the use of fraudulently obtained Social Security numbers. Defendant Reed used the identities of other individuals to fraudulently apply for and receive federal student financial assistance totaling $40,858, in violation of 20 U.S.C. § 1097(a).[19] This case was investigated by ED's, the Department of Homeland Security's, and the Social Security Administration's Offices of Inspector General.

- *United States v. Karen M. Hardy-Woods*, Case No. 3:07-cr-00106-M-1 (N.D. Tex.)

Defendant Hardy-Woods was charged with using multiple variations on the spelling of her name and her Social Security number to apply for student aid, after having defaulted on an earlier student loan, in violation of 20 U.S.C. § 1097(a). The defendant pleaded guilty to the single-count indictment and in February 2008 was sentenced to 60 months' probation, a $100 special assessment, and restitution in the amount of $109,571. This case was investigated by ED's Office of Inspector General.

IV. Conclusion

As described above, the FTC, ED, and the 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 financial aid fraud.

Endnotes

1. According to the 2008 edition of The College Board's *Trends in College Pricing* (*available at* http://professionals.collegeboard.com/profdownload/trends-in-college-pricing-2008.pdf), the average total costs, including tuition, room, and board, for in-state students at public four-year colleges and universities in 2008-09 rose 5.7% from 2007-08. The average total costs for out-of-state students at public institutions rose 5.2%. The average total costs for private institutions rose 5.6%. Analyzing long-term trends, The College Board reports that over the past decade, published tuition and fees at public four-year institutions have risen at an average rate of 4.2% per year after inflation, while published tuition and fees at private institutions have risen at an average rate of 2.4% per year after inflation.

2. The inaugural Report can be found at http://www.ftc.gov/opa/2002/05/scholarshipfraud.htm. The second Report can be found at http://www.ftc.gov/opa/2003/05/scholarshipfraud.htm. The third Report can be found at http://www.ftc.gov/opa/2004/05/scholarshipfraudrpt.htm. The fourth Report can be found at http://www.ftc.gov/opa/2005/05/scholarship.htm. The fifth Report can be found at http://www.ftc.gov/opa/2006/05/scholarshipfraud.htm. The sixth Report can be found at http://www.ftc.gov/opa/2007/05/collegescholarshipfraudrpt.shtm. The Seventh Report can be found at http://www.ftc.gov/os/2008/05/collegescholarshipfraudpreventionrpt.pdf.

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

4. 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.

5. *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 website).

6. Federal Family Education Loan Program: Final Rule, 72 Fed. Reg. 61,960, 61,999-62002, 62,2003-62,2004 (Nov. 1, 2007) (to be codified at 34 C.F.R. §§ 682.200(b), 682.212(h), and 682.401(e)).

7. Consumer Sentinel is a secure, password-protected complaint database designed to allow law enforcers to share data about fraud. Consumer Sentinel now contains over 7.2 million fraud and identity theft complaints and is accessible to more than 1,700 law enforcement agencies – including every state attorney general in the U.S. and consumer protection agencies in 23 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 125 other organizations. More information on Consumer Sentinel can be found in *Consumer Sentinel Network Data Book for January-December 2008*, issued by the FTC in February 2009 and available online at
http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2008.pdf.

8. As discussed in the 2006 Report, the Consumer Sentinel category "scholarship/educational grants" previously included both financial aid-related complaints and non-educational grants complaints, and the ratio between the two groups remained relatively constant through 2003. Due to a significant increase in the number of non-educational grants complaints in 2004 and 2005, the ratio changed dramatically, making it difficult to compare increases or decreases in the "scholarship/educational grant" category accurately. Accordingly, the FTC performed an analysis to estimate the number of financial aid-related complaints in 2005 and prior years. To avoid that problem in the future, the FTC introduced a new Sentinel complaint category in 2006, "non-educational grants," so that the two groups of complaints could be collected and maintained separately. The number of financial aid-related complaints and total fraud complaints per year are set forth in the following table.

Year	Financial Aid-Related Complaints	Total Fraud Complaints	Percentage of Financial Aid Complaints to Total Fraud Complaints
1996	133	16,588	0.802%
1997	146	29,069	0.502%
1998	246	62,840	0.391%
1999	290	85,248	0.340%
2000	228	107,910	0.211%
2001	184	134,136	0.137%
2002	259	241,498	0.107%
2003	328	327,479	0.100%
2004	757	410,709	0.184%
2005	256	437,906	0.058%
2006	201	428,319	0.047%
2007	198	555,472	0.035%
2008	157	643,195	0.024%

9. Using the data available, the FTC cannot conclusively explain the 2004 spike. As discussed in prior years' Reports, the influx of complaints that year may have been due, in part, to the FTC's then-recent actions against two companies, The College Advantage and National Student Financial Aid. It is not unusual for complaints to temporarily rise after the FTC announces law enforcement actions.

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. These numbers could be skewed for several reasons, including: (1) some consumers may complain 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.

11. To apply for federal student financial aid, and to apply for many state student aid programs, students must first 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.

12. 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 restitution 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 preliminary relief on an *ex parte* basis.

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

14. Although the FTC obtained approximately $22.8 million in judgments, the full amount of these judgments was not collected. In the case of judgments obtained through settlement, the FTC suspended some or all of the judgment amount based upon the defendants' demonstrated inability to pay the full amount. In other cases, the FTC referred unsatisfied judgment balances to the U.S. Treasury for further collection efforts.

15. Defendant Shepard pleaded guilty in November 2008 to one count each of tax preparer fraud and student scholarship fraud. In March 2009, also after the FY2008 reporting period ended, the defendant was sentenced to five years' probation, a $200 special assessment, and ordered to pay $6,500 in restitution.

16. Defendant Sherman was sentenced in March 2009 to 18 months' imprisonment, three years' supervised release, a $200 special assessment, and ordered to pay $108,995 in restitution.

17. Defendant Dunlap was sentenced in December 2008 to two years' probation, a $100 special assessment, and ordered to pay restitution in the amount of $134,888.

18. Defendant Stockton was sentenced in October 2008 to one year of probation, a $50 special assessment, and ordered to pay restitution to the PHEAC in the amount of $27,500.

19. Defendant Reed was sentenced in February 2009 to 27 months' imprisonment (for counts 1, 2 and 5) followed by 24 months' imprisonment (for count 4) to be served consecutively to the term imposed for counts 1, 2, and 5, three years' supervised release, a $400 special assessment, and ordered to pay restitution in the amount of $125,916.87.