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**FILED**

**AUG 15 2016**

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 Attorney for Plaintiff  
9 CONCEPCION SAENZ-CAMBRA

10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13  
14 U.S. ex rel. CONCEPCION )  
15 SAENZ-CAMBRA )  
16 250 King Street Apt. 630 )  
17 San Francisco, CA 94107 )

18 Relator, )

19 v. )

Civil Action No: 15-cv-04654-EDL

20 INTERNATIONAL )  
21 TECHNOLOGICAL UNIVERSITY, )  
22 2711 N. 1st Street )  
23 San Jose, CA 95134 )

24 Serve: Gregory O'Brien )  
25 367 Santana Heights #5039 )  
26 San Jose, CA 95128 )

27 TESLA MOTORS, Inc. )  
28 3500 Deer Creek Road )  
Palo Alto, CA 94304 )

Serve: C T Corporation System )  
818 W. 7<sup>th</sup> Street, Ste. 930 )  
Los Angeles, CA 90017 )

BETA SOFT SYSTEMS, Inc. )  
42808 Christy Street, Ste. 101 )  
Fremont, CA 94538 )

1	<b>Serve: Vishal Mangla</b>	)
2	<b>2346 Rutherford Lane</b>	)
3	<b>Fremont, CA 94538</b>	)
4	<b>Gregory O'Brien</b>	)
5	<b>2711 N. 1st Street</b>	)
6	<b>San Jose, CA 95134</b>	)
7	<b>Karl Wang</b>	)
8	<b>2711 N. 1st Street</b>	)
9	<b>San Jose, CA 95134</b>	)
10	<b>Edward Lam</b>	)
11	<b>2711 N. 1st Street</b>	)
12	<b>San Jose, CA 95134</b>	)
13	<b>Chi-Chia Hsieh</b>	)
14	<b>2711 N. 1st Street</b>	)
15	<b>San Jose, CA 95134</b>	)
16	<b>Yat-Pang Au</b>	)
17	<b>2711 N. 1st Street</b>	)
18	<b>San Jose, CA 95134</b>	)
19	<b>Bhaskar Kura</b>	)
20	<b>2711 N. 1st Street</b>	)
21	<b>San Jose, CA 95134</b>	)
22	<b>Ivan Chan</b>	)
23	<b>2711 N. 1st Street</b>	)
24	<b>San Jose, CA 95134</b>	)
25	<b>Thomas Gold</b>	)
26	<b>2711 N. 1st Street</b>	)
27	<b>San Jose, CA 95134</b>	)
28	<b>and</b>	)
	<b>DOES. 1-50,</b>	)

1 Defendants.\_\_\_\_\_)

2  
3 **FALSE CLAIMS ACT FIRST AMENDED COMPLAINT**

4 **INTRODUCTION**

- 5  
6 1. Qui tam relator Concepcion Saenz-Cambra (“Saenz-Cambra” or “Relator”), by her  
7 attorneys, individually and on behalf of the United States of America, files this complaint  
8 against Defendants International Technological University (“ITU”); Tesla Motors, Inc.  
9 (“Tesla”); Beta Soft Systems, Inc. (“Beta Soft”); Gregory O’Brien, Karl Wang, Edward  
10 Lam, Angie Lo, Chi-Chia Hsieh, Yat-Pang Au, Bhaskar Kura, Arnold Wong, Ivan Chan,  
11 Thomas Gold (together, “Individual Defendants”); and Does. 1-15; (hereinafter,  
12 collectively referred to as “Defendants”), to recover damages, penalties, and attorneys’  
13 fees for violations of the federal False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, (“FCA” or  
14 “False Claims Act”).  
15  
16 2. Defendants violated the False Claims Act when Defendants falsely certified to the U.S.  
17 Government that individuals were full-time students complying with federal requirements  
18 under the Student and Exchange Visitor Program (“SEVP”) in order to fraudulently  
19 obtain F-1 student visas for individuals enrolled at ITU in lieu of H-1 work visas.  
20  
21 3. ITU and Individual Defendants further violated the False Claims Act when Defendants  
22 falsely certified to the U.S. Government that individuals were working at ITU in order to  
23 obtain H-1B visas for individuals otherwise unable to obtain a visa.  
24  
25 4. Finally, Defendant ITU violated the anti-retaliation provisions of the False Claims Act  
26 when ITU terminated Relator Saenz-Cambra’s employment in retaliation for bringing a  
27 qui tam suit against ITU. 31 U.S.C. § 3730(h).  
28

**JURISDICTION AND VENUE**

- 1 5. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 and 31  
2 U.S.C. § 3732(a).
- 3 6. This Court has personal jurisdiction over ITU pursuant to 31 U.S.C. § 3732(a) because  
4 ITU is headquartered in this judicial district.
- 5 7. This Court has personal jurisdiction over Tesla pursuant to 31 U.S.C. § 3732(a) because  
6 Tesla is headquartered in this judicial district.
- 7 8. This Court has personal jurisdiction over Beta Soft pursuant to 31 U.S.C. § 3732(a)  
8 because Beta Soft is headquartered in this judicial district.
- 9 9. This Court has at least specific jurisdiction over the Individual Defendants with regard to  
10 fraud perpetrated in connection to the Individual Defendants' respective employment at  
11 ITU or services on ITU's Board.
- 12 10. This Court has personal jurisdiction over Dos. 1-50 pursuant to 31 U.S.C. § 3732(a) and  
13 CAL. CIV. PROC. CODE § 410.10 (West 1970) because Dos. 1-50 are headquartered in this  
14 judicial district, conduct substantial, continuous, and systematic activities within this  
15 judicial district, or this dispute has a substantial connection with Dos. 1-50's contacts  
16 with this judicial district.
- 17 11. Venue is proper in this Court under 28 U.S.C. §§ 1391(c), 28 U.S.C. §1395(a), and 31  
18 U.S.C. § 3732(a) because Defendants can be found in and transact business in this  
19 judicial district.

### 20 THE PARTIES

- 21 12. Relator Concepcion Saenz-Cambra is a naturalized U.S. Citizen of Spanish origin and a  
22 resident of San Francisco County, California.
- 23 13. Saenz-Cambra worked for Defendant ITU as the Director of Faculty Affairs from  
24 October 2014 to March 24, 2016.

1 14. Defendant ITU is a California non-profit graduate university founded in 1994, with its  
2 headquarters and principal place of business in San Jose, California.

3 15. Defendant Tesla is an automotive manufacturer specializing in the design and  
4 manufacture of electric cars.

5 16. Defendant Beta Soft is a software development company employing over 500  
6 individuals, primarily in the Silicon Valley area.

7 17. Gregory O'Brien has served as ITU's President since February 2015. O'Brien is also an  
8 Ex Officio member of ITU's Board of Trustees ("Board").

9 18. Karl Wang serves as ITU's Provost.

10 19. Edward Lam is ITU's Chief Financial Officer.

11 20. Angie Lo serves as ITU's Board Liaison.

12 21. Chi-Chia Hsieh serves as the Chairman of ITU's Board.

13 22. Yat-Pang Au serves as the Treasurer of ITU's Board.

14 23. Bhaskar Kura serves as the Secretary of ITU's Board.

15 24. Arnold Wong, Ivan Chan, and Thomas Gold are members of ITU's Board.

16 25. Does. 1-50 are other Silicon Valley employers that conspired with ITU to falsely certify  
17 employees as students for the purposes of obtaining student visas in lieu of work visas.

18  
19  
20 **FACTUAL ALLEGATIONS**

21 **Background Information as it Relates to ITU**

22 26. ITU was founded in 1994 in San Jose, California by Dr. Shu-Park Chan, the tenth son of  
23 the famous General Jitang Chen, Warlord of Guangdong Province (a.k.a. Canton  
24 Province) ("Warlord Chen") in Southern China from 1928 to 1936.  
25  
26  
27  
28

1 27. During his tenure, Warlord Chen worked to improve infrastructure, social services,  
2 hospital care, education, and city resources that would ensure safety and prosperity for all  
3 citizens living within the city.

4 28. As the political climate changed throughout China, Warlord Chen was forced to retreat to  
5 Taiwan and was unable to realize the second part of his vision, to modernize China by  
6 replicating his high-tech city model throughout the nation. Warlord Chen sent Chan, his  
7 son, to America, charging him to absorb the best of the American education system and  
8 then return to China to continue its development.

9 29. In keeping with his father's charge, Chan obtained his Ph.D. in electrical engineering  
10 from the University of Illinois at Urbana-Champaign (UIUC) and embarked on a thirty  
11 year teaching career at Santa Clara University.

12 30. Chan retired from teaching in 1994 to found ITU with the vision of providing electrical  
13 engineering and computer sciences education that bridged the gap between academic  
14 theory and practical application on a global scale. As such, ITU's curriculum and  
15 operations are heavily oriented to international students and the Silicon Valley industrial  
16 community.

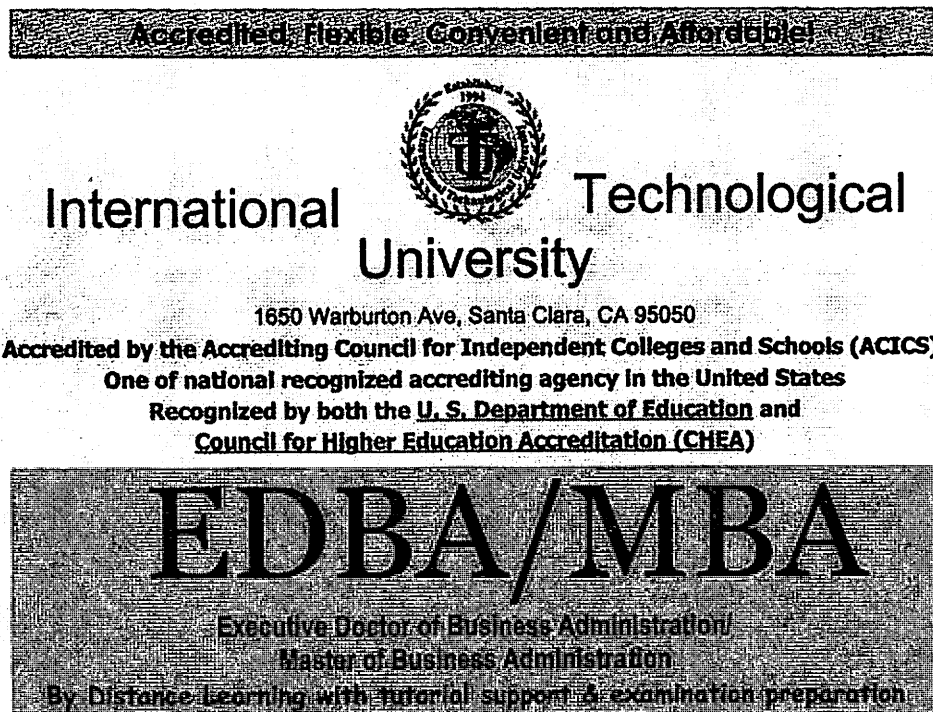
17 31. Over 85% of ITU's students are international students studying on student visas. These  
18 students hail from over 22 countries, but most come from India.

19 32. ITU's graduate degrees also cater to Silicon Valley businesses, with programs in  
20 electrical engineering, digital arts, computer science, engineering management, and  
21 business administration. Additionally, ITU hires Silicon Valley working professionals as  
22 instructors in lieu of academics.

23 33. Chan's son, Yau-Gene Chan ("Y. Chan"), joined ITU as Executive Vice President in  
24 2005, and succeeded Chan as President in 2010.

### ITU's Rocky Accreditation History

34. ITU obtained accreditation from the Accrediting Council for Independent Colleges and Schools ("ACICS") on or about July 1, 2001.
35. However, on or about December 31, 2004, ACICS revoked ITU's accreditation.
36. In 2005, ITU's attendance hit an all-time low, with only eighteen students enrolling.
37. From 2005 to 2011, ITU held no accreditations.
38. During this time, ITU marketed its academic programs across the United States and several Asian countries. One such academic program included was ITU's Executive Doctor of Business Administration/Master of Business Administration ("EDBA/MBA") distance learning program.
39. ITU claimed that the EDBA/MBA program was accredited by ACICS, as seen below:



40. But in fact, ITU had no accreditation from ACICS or any accreditation institution at the time, and ACICS has never accredited the EDBA/MBA program.

1 41. On or about February 22, 2013, ITU received accreditation from the Western Association  
2 of Schools and Colleges, Senior College and University Commission ("WASC").

3 42. But that accreditation is already on thin ice.

4 43. On or about October 14, 2014 to October 16, 2014, WASC visited ITU for a "Special  
5 Visit" to review ITU's progress regarding faculty adequacy, assessment, institutional  
6 research, and Strategic Planning. The Special Visit was a condition of ITU's 2013  
7 accreditation.  
8

9 44. WASC's Special Visit team initially issued a positive evaluation following the Special  
10 Visit.

11 45. However, WASC quickly reversed its positive evaluation of ITU and conducted a second  
12 visit on or about February 6, 2015.

13 46. After the February 6, 2015 visit, WASC issued a second report directing ITU to take  
14 several steps to remedy issues including:  
15

- 16 a. knowing submission of inaccurate student records, data or related information to  
17 SEVIS,
- 18 b. use of institutional funds for the benefit of the President and his close associates  
19 apart from internal processes and controls,
- 20 c. inappropriate provision of I-20 visas, apart from established admissions protocols,  
21 for persons otherwise not qualified to gain admission to the University,  
22
- 23 d. placement of apparently unqualified persons in charge of critical institutional  
24 functions for the evident purpose of hastening admissions and avoiding normal,  
25 due processes, together with the instruction from the CEO that these persons find  
26 ways to work around inconvenient compliance barriers,  
27  
28



- 1 e. questionable use of “Presidential Exceptions” and “Department Chair Exceptions”  
2 in which students with either questionable qualification or incomplete application  
3 documents were admitted by individual action and in violation of the institution’s  
4 admission standards and procedures, and  
5  
6 f. significant commitment of institutional resources in service of initiatives that have  
7 little alignment with the core academic mission of a WASC accredited graduate  
8 university but appear more in keeping with the President’s global ambitions – to  
9 the detriment of essential core functions of the institution.

10 47. In response to WASC’s findings, ITU’s Board of Trustees removed Y. Chan as the  
11 university’s president, instead installing Gregory O’Brien as president.

12 48. ITU has also allegedly taken steps to increase the Trustees’ involvement in the  
13 university’s operations.  
14

15 49. On or about May 6, 2015, WASC visited ITU again. Noting the changes the Board had  
16 made, WASC gave ITU a positive evaluation, but noted additional actions needed to be  
17 taken to remedy all of ITU’s shortcomings.

18 50. However, as discussed more fully below, ITU continues to flagrantly circumvent WASC  
19 accreditation requirements and federal law.

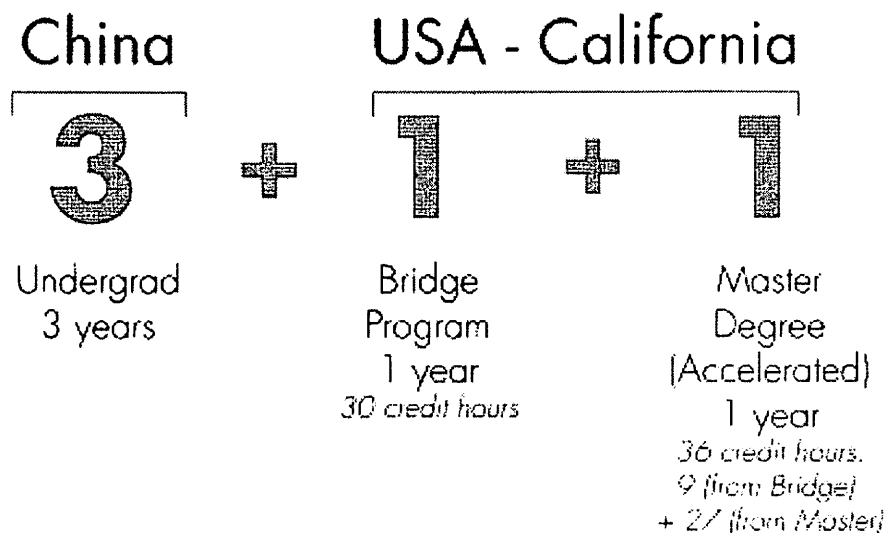
20 51. For example, ITU continues to advertise unaccredited programs.  
21  
22  
23  
24  
25  
26  
27  
28

52. Most recently, ITU has advertised a “3+1+1” program that allows Chinese students to finish their undergraduate degree at ITU while beginning a Masters program at ITU:

### A Global Partnership

ITU has partnered with Chinese Service Center for Scholarly Exchange (CSCSE) to setup a two-year extensive study program. The **3+1+1** program is designed for students who have completed a three-year undergraduate degree program but wish to undertake further study to **strengthen their core competencies** in an accelerated US graduate Master's degree program.

The new program offers students currently seeking an undergraduate degree in China to be conditionally admitted to ITU's Master's Degree programs by completing a Bridge Program in the first year on the university's Silicon Valley campus. This unique program gives students the chance to **earn a graduate degree from ITU**, an accredited US graduate university, while **learning in the industry-leading Silicon Valley**.



53. However, ITU has no accreditation for undergraduate studies.

54. Instead of focusing on bringing its current programs into compliance with WASC's accreditation requirements, ITU is currently implementing its plan to create an international arm in China to attract even more students to the United States on student visas.

55. ITU intends to exploit a loophole in the accreditation that allows schools to award up to 9 credits to students internationally.

1 56. After the student earns the 9 credits internationally, at a school accredited by an  
2 accrediting body in the United States, the student can then come to ITU in California to  
3 complete their degree, or the student can elect to transfer the credits to another school in  
4 the United States since their credits are in compliance with an American accrediting  
5 body.

6  
7 57. While not technically in violation of accrediting requirements, the initiative is consistent  
8 with ITT's prioritization of visas over education.

9 **Relator Concepcion Saenz-Cambra Begins Employment at ITU**

10 58. Such was the tumultuous state of affairs at ITU when Saenz-Cambra began working at  
11 ITU in October 2014, and through the duration of her employment.

12 59. In fact, Saenz-Cambra encountered fraudulent activities her very first day at ITU.

13 60. On Saenz-Cambra's first day, consistent with her duties as Director of Faculty Affairs,  
14 Saenz-Cambra attempted to observe a class taught by Professor Min Wu.

15 61. But when Saenz-Cambra went to the classroom at the scheduled time, no one was there.  
16 Saenz-Cambra could not find Wu or any students enrolled in the class.

17 62. Later that day, Saenz-Cambra learned from Barbara Eini and Lei Gong that Wu had been  
18 in China for a few weeks, and would not be returning to teach that semester.

19 63. Wu did not return the following semester, or the next, and, in fact, never returned to the  
20 United States from China or resumed teaching.

21 64. At Saenz-Cambra's request, her supervisor at the time, Barbara Hecker took over Wu's  
22 classes.

23 65. Had Saenz-Cambra not been hired, the class would not have been held at all, but the  
24 students would have still received credit.

1 66. Though Hecker took over teaching for the trimester, she was not willing to take on all of  
2 Wu's work for the course. Ultimately, Hecker gave all of the students in the course "A"  
3 grades because Hecker was traveling over the holidays and did not want to have to grade  
4 over the holidays.

5 67. Saenz-Cambra would learn over the following trimesters that such shortcuts and  
6 circumvention of policy were prevalent at ITU.  
7

8 **ITU's Circumvention of Federal Statutory Requirements Overseeing Student Visas**

9 68. The Form I-20 (also known as the Certificate of Eligibility for Nonimmigrant (F-1)  
10 Student Status-For Academic and Language Students) is a document issued by SEVP  
11 certified schools that provides supporting information on a student's F (academic) or M  
12 (vocational) status.

13 69. ITU issues I-20s in support of students' status so students can obtain an F-1 (student)  
14 visa.  
15

16 70. An F-1 visa requires a student to pay a \$160 application fee and a \$200 Student and  
17 Exchange Visitor Information System ("SEVIS") fee, bringing total fees to \$360.

18 71. The only employees allowed to issue I-20s are "Designated School Officials" ("DSOs")  
19 registered with the Department of Homeland Security ("DHS").

20 72. As an SEVP certified school, ITU was aware of this requirement.

21 73. Until on or about December 2014, David Khoperia was in charge of ITU's International  
22 Students Office ("ISO").  
23

24 74. Khoperia had been put in the position by Sophia Gu, a senior official at ITU, in an effort  
25 to ensure that the Head of ISO was loyal to Gu.

26 75. Khoperia was not a DSO and was not qualified to work in the ISO as, by law, he should  
27 not have had access to students' I-20s or SEVIS records.  
28

1 76. Both Gu and Khoperia have been the subject of multiple complaints that the two “manage  
2 by intimidation” and interfering with lower-level ITU employees’ ability to properly do  
3 their jobs in accordance with the law.

4 77. During his tenure as Head of ISO, Khoperia repeatedly took over DSOs’ appointments  
5 with students and would perform duties legally only allowed to be performed by DSOs.

6 78. For example, Khoperia reviewed Requests for Evidence letters (“RFEs”) issued by the  
7 United States Customs and Immigration Services (“USCIS”).

8 79. When DSOs interviewed students to gather information needed to determine whether an  
9 I-20 recommendation could be made, Khoperia reported them to Human Resources for  
10 spending too much time talking to the students. Khoperia also kept the ISO office closed  
11 to students for a period of time.

12 80. Another time, Khoperia directed a DSO to issue an I-20 with a blank third page and hand  
13 write the information, instead of following the ordinary process and recording the  
14 recommendation in the (“SEVIS”). Khoperia himself then wrote a letter to USCIS asking  
15 them to approve the I-20.

16 81. And another time, Khoperia forced a DSO create a large number of I-20s without names  
17 and then leave Khoperia with access to them. The nameless I-20s did not subsequently  
18 appear in ITU’s internal systems.

19 82. Khoperia also made requests to USCIS for SEVIS records, despite the law requiring that  
20 only DSOs make such requests.

21 83. Even after SEVIS banned ITU from using the system following discovery of some of  
22 these abuses, Khoperia used a former DSO’s login credentials to access the SEVIS  
23 systems for issuing I-20s.

1 84. Despite Khoperia repeatedly being caught breaking rules regarding I-20s and DSOs, he  
2 remains employed with the university and was actually promoted to be the Head of  
3 Compliance in the department that handles student visas and related information.

4 **ITU Undermines Qualified Individuals from**  
5 **Properly Overseeing SEVIS Compliance**

6 85. After Khoperia was promoted, Suman Bhargava was promoted to Head of ISO.  
7 Bhargava was a DSO and was legally allowed to access SEVIS and issue I-20s.

8 86. However, ITU did not allow Bhargava to access systems that would allow him to check  
9 who is being issued I-20s.

10 87. In fact, ITU employee Mary Tran, who works in ITU Admissions and is close with Gu,  
11 instructed ISO staff to lie to Bhargava in order to prevent him from accessing I-20  
12 information.

13 88. Tran indicated that the instruction came from O'Brien.

14 89. Despite this, under Bhargava's tenure, ISO's backlog of student requests was drastically  
15 reduced and ISO came into compliance with SEVIS requirements.

16 90. However, in or about early February, 2015, O'Brien demoted Bhargava.

17 91. O'Brien stated that Bhargava was demoted because an immigrant could not legally be the  
18 Head of ISO.

19 92. But no such law actually prohibits an immigrant from holding the Head of ISO position.

20 93. As a result of Bhargava's demotion, ISO employees Hayat Adem, Jonelle Howard, and  
21 Amy Chaung wrote letters in support of Bhargava, noting his exemplary performance and  
22 resolution of the problems that were prominent under Khoperia.

23 94. On or about February 12, 2015, O'Brien appointed Gu to be Interim Head of ISO.

24 O'Brien also appointed Gu to oversee the Department of Admissions on an interim basis.

1 95. But WASC had previously emphasized the importance of keeping the Department of  
2 Admissions and ISO separate in order to avoid any conflicts of interest, maintain integrity  
3 in the admissions process, and comply with federal law.

4 96. In or about April 2015, O'Brien appointed Jimmie White as the new Director of ISO.

5 97. White had over 35 years' experience in higher education and previously worked in  
6 international student affairs at the University of California Los Angeles.

7 98. By about June or July 2015, however, White had discovered a number of serious  
8 infractions relating to the issuing of I-20s. White threatened to report the infractions, but  
9 O'Brien paid White to not report the infractions.

10 99. White is still technically employed by ITU, but has not been seen on campus since in or  
11 about June or July 2015.

12 100. Additionally, in or about September 2015, ITU hired Jeremy Wintringer as the  
13 new Director of ISO.

14 **ITU Intentionally Fails to Track Where its Students Live**

15 101. ITU also fails to follow SEVP requirements to ensure that all I-20 students  
16 register at the beginning of the academic year.

17 102. ITU has deliberately created a siloed process that makes it impossible to check  
18 that all I-20-issued students enroll.

103. ITU cannot even determine where all of the university's students live, let alone whether they live within commuting distance of the school, as stated in the email below:

Hello All,

Here is the breakdown based on available information for students enrolled in Summer 15.

Residence Type	Percentage
Within 50 miles	67.91%
Not within 50 miles	32.09%

Source: Zip code information was obtained from <http://www.freemaptools.com/find-zip-codes-inside-radius.htm>

Note not all students gave us their current addresses. I have informed RO and ISO to enforce the address requirement by ITU and SEVIS.

Let me know if you have any questions.

Matthew Ng

104. In many cases, students live several states away from ITU and some have never even been to ITU's campus.

105. Although ITU intentionally does not collect information on where all students live, ITU has reason to know that at least 30% of ITU students reside out of state.

106. ITU knows this because students are required to attend a set number of conferences held by ITU in order to graduate.

107. Since this requirement was put in place, approximately 30% of students email or send a letter to the registrar advising that they cannot attend the conferences because they live out of state and request that their absence be excused.

108. Rather than enforcing the requirement, ITU usually waives the requirement for the out-of-state students.

109. Additionally, many female students request marks of "incomplete" in classes for reasons like moving out of state or having a baby.



110. These female students usually come to the United States with their husbands, but are unable to obtain a visa through ordinary means, so they enroll in ITU.

111. The students request an incomplete because they can maintain their student visa through ITU for at least a year if they are receiving incompletes, but cannot maintain their visas if they receive failing grades.

112. While failing grades are rare at ITU, some ITU professors do take their academic responsibilities seriously, so the students would rather request an incomplete than risk being in a class with a professor who might fail them.

113. ITU grants these requests so that the students can keep their visas, despite not being in compliance with SEVP eligibility requirements.

**ITU Intentionally Fails to Track Whether Students Attend Class**

114. Additionally, class attendance is not formally tracked by either ITU or most teachers, as indicated in the following email:

----- Forwarded message -----

From: Tom Tafolla <ttafolla@itu.edu>

Date: Thu, Jan 15, 2015 at 3:07 PM

Subject: Re: ITU - Instructor's Guide

To: Concepcion Saenz-Cambra <csaenz-cambra@itu.edu>

Thank you very much for your feedback, Conchi. I value it. Frankly, it doesn't matter that much to me what the school decides. Ultimately, I believe it is clearly the school's responsibility to handle this Immigration compliance issue in a reasonable, accurate, and true manner.

Frankly, I don't know how the Designated School Official (DSO) for immigration purposes can actually sign-off that ITU is in legal compliance with the rules and regulations of the USCIS regarding attendance.

It doesn't matter to me because the university keeps assuring faculty that we don't have to actually take attendance and that apparently it is not the responsibility of the university, but that of faculty.

I think this is a potentially fatal misunderstanding of the law; either mine or the university's.

Remember, the parting words of the WASC accreditation team was that we should be very mindful of potential legal compliance issues. ITU has already been warned.

Tom

1 115. But ITU provides documentation verifying attendance even though, in most cases,  
 2 ITU does not and cannot know whether a student has attended classes.

3 116. And ITU knows that the university is required to report to USCIS any student's  
 4 deviation from the SEVP required full-time attendance, as well as its students' current  
 5 local addresses.

6  
 7 117. As seen below, ITU claims that the school does not take attendance for purposes  
 8 of academic integrity:

9 Hello Tom,

10 Thanks for your request and feedback. There have actually been many  
 11 discussions on building an attendance feature into the EMS in the past.

12 From a technical perspective, the feature would be very easy to build. There is  
 13 not much logic to it.

14 The core reason that we have not built an attendance feature into the EMS is  
 15 because we want ITU's courses to be focused on engaging students in learning,  
 16 not just measuring the number of butts in seats. There is no actual educational  
 17 quality added by taking attendance. There is also no specific regulations  
 18 requiring that attendance be taken for students, to include international students.

19 There are, however, other methods that some professors are using that are  
 20 recommended and serve the function of both documenting that students are in  
 21 class, as well as adding to the educational quality of our courses.

22 You can create an assignment that is only open to students during class time and  
 23 ask them questions to gauge how much they have been paying attention in your  
 24 class.

25 This is a win-win because it doesn't take the valuable time away from instructors  
 26 teaching their courses, it provides a way to engage students in learning, and also  
 27 acts to document a student's time in the classroom.

28 I hope this addresses our reasons for not building a specific feature for tracking  
 attendance in the EMS.

Thanks,  
 Mikel

118. But ITU's verifications that a student attends class, without any knowledge or  
 basis for such verifications, are false statements made to the government regardless of  
 why ITU does not take attendance.

119. Furthermore, online classes have extremely lax requirements, such as posting a  
 single idea in an online forum.

120. Additionally, ITU pressures professors to provide attendance verification, in some cases even when the school knows that the student has not attended class, as seen in the email exchange below for two students who were kicked out of the class for cheating.

121. In other cases, when professors do try to take attendance, "weird" things happen, as seen in the following em

----- Forwarded message -----

From: **Tony Nguyen** <tnghuyen@itu.edu>

Date: Sun, May 3, 2015 at 5:09 AM

Subject: Re: Misunderstanding regarding the final exam

To: Concepcion Saenz-Cambra <csaenz-cambra@itu.edu>

Cc: May Huang <mhuang@itu.edu>

Hi,

I am facing a more complicated issue here that it seems. May be you can help me solve it.

In the morning before the exam, I asked students to put their names on a sign-in sheet that is passed around in class. Then the exam started and I collected the sign-in sheet

I counted the names on the sign-in sheet and I did a head count of the number of students in class.

And surprise:

There were **2 more names on the sign-in sheet** than the actual physical persons in class ! And there were no students leaving the classroom at the start of the exam.

I could not believe it, so I repeated the physical head count again twice . And the result was the same : 2 more names on the sign-in sheet than the actual students in class. I let the students know about this, because this is a weird issue

I decided and told the students they should sign out with me when they finish the exam before they leave the classroom. This served 2 purposes:  
- to find out the students who actually did the exam inside the classroom  
- to verify their submission in EMS, because EMS could have problem with file attachment

I announced to students clearly that if they do not personally check out with me, then their presence is not verified.

After the exam, I reconciled the sign-in and sign-out sheet, and I found out the 2 names that are on the sign-on sheet but did not checked out. The number 2 explains the difference between the physical headcount of those who were inside the classroom and did check-out with the extra names on the sign-in sheet.

Thanks for helping me in this puzzling issue.

**Grade Inflation and Fabrication**

122. At most schools, signing in at an exam would not be sufficient to pass the class, as the school could simply look to see who did not complete the exam.

123. At ITU, however, large scores of students that never attend class receive passing grades and even "A" grades.

124. For example, in the Fall 2014 Production and Operations Management Class allegedly taught by [REDACTED], all of the students received grades of "A" or "B," though there is no indication that any students attended the class, turned in any assignments, or completed any exams, as indicated by the table below:

MGTN 920-1 Production and Operations Management [REDACTED] Fall 2014					
Id	Name	Class Participation	Attendance (10%)		
83133	Avinash Puppala	0/0	0/0		
83659	Haritha Kethineni	0/0	0/0		
85511	Krishnaja Lakkakula	0/0	0/0		
86092	Pragati Uddhav Shirname	0/0	0/0		
82237	Rajeev Siddhoju	0/0	0/0		
83041	Shivata Chowdhry	0/0	0/0		
84478	Sowmya Gowru	0/0	0/0		
86594	VARUN KUMAR BAKKA	0/0	0/0		
1020131	Vinay Kumar Radharapu	0/0	0/0		
87400	WEI SUN	0/0	0/0		
82544	Xingyi Tang	0/0	0/0		
84109	Xuti Song	0/0	0/0		
12200247	Zeeshan Mohammed Armar	0/0	0/0		
83213	Zichen Yuan	0/0	0/0		

Mid-Term (30%)	Final (40%)	Weighted Score	Current Grade	Final Grade	Email
0/0	0/0	0%	F	A	avinashpuppala@gmail.com
0/0	0/0	0%	F	A	haritha.kethineni@gmail.com
0/0	0/0	0%	F	A	klakkakula@yahoo.com
0/0	0/0	0%	F	B	86092.shirname@students.itu.edu
0/0	0/0	0%	F	B	rajeevsiddhoju@gmail.com
0/0	0/0	0%	F	A	chowdhryshweta@gmail.com
0/0	0/0	0%	F	A	sowmyareddy.gowru@gmail.com
0/0	0/0	0%	F	A	86594.bakka@students.itu.edu
0/0	0/0	0%	F	A	1020131.radharapu@students.itu.edu
0/0	0/0	0%	F	A	87400.sun@students.itu.edu
0/0	0/0	0%	F	B	xingyicindy@gmail.com
0/0	0/0	0%	F	A	songxuti@gmail.com
0/0	0/0	0%	F	B	zeeshanarmar@gmail.com
0/0	0/0	0%	F	A	mr.yuanzichen@gmail.com

125. And when there are grades for assignments, despite terrible raw academic performances, large numbers of students pass their classes and more often than not receive A grades.

126. For example, in the Summer 2014 Data Mining class, over half the class received raw scores below 70% (D or lower), even after the professor allowed students to complete an extra credit assignment to boost their grades. But somehow, no student received below a C- as their final grade, as demonstrated in the table below.

CS 831-1	Data Mining	Ming-Hwa Wang Summer 2014	
Id	Name	term project (25%)	midterm exam (15)
84075	Gautham Pal Gopinath	255 / 300	88 / 200
85065	Jayalakshmi Ramachandran	285 / 300	24 / 200
84987	Mohan Reddy Palagiri	250 / 300	46 / 200
1020317	Prijesh Bhaskar	250 / 300	22 / 200
804039	Pushpander Pratap Singh	255 / 300	115 / 200
84108	Ramya Keerthi Namburi	270 / 300	60 / 200
86545	Remya Nekkuth Melath	270 / 300	127 / 200
83359	Sandhya Yadav	255 / 300	120 / 200
85621	Sarathchandra Dindu	250 / 300	80 / 200
85390	Shri Rachana Rajasekaran	255 / 300	76 / 200
86448	SIMMY PAYYAPPILLY VARGHESE	280 / 300	120 / 200
84190	Smita Dinesh Dubai	250 / 300	58 / 200
83611	Sushma Thigala	270 / 300	108 / 200
82365	Swathi Meher Teegela	255 / 300	46 / 200
85966	Swati Raj Saini	270 / 300	29 / 200
84898	Vanisree Cholleti	245 / 300	16 / 200
86776	Venu Gopal boddapati	250 / 300	35 / 200

final exam (15%)	programming assig	bonus assignments	Weighted Score	Current G	Final Grade	Email
74 / 200	309 / 400	133 / 140	70.8%	C-	A	gauthampai.g@gmail.com
40 / 200	271 / 400	125 / 140	62.3%	D-	A-	r_jaya1987@yahoo.in
47 / 200	235 / 400	101 / 140	56.3%	F	B+	director.mohan100@gmail.com
17 / 200	184 / 400	73 / 140	45.4%	F	C+	iprijesh@gmail.com
120 / 200	360 / 400	135 / 140	80.3%	B-	A+	pushpander.singh@gmail.com
74 / 200	170 / 400	87 / 140	54.6%	F	B+	ramyanvinay@gmail.com
150 / 200	341 / 400	137 / 140	83.5%	B	A+	remyasivan.20@gmail.com
150 / 200	360 / 400	135 / 140	83%	B	A+	sandhya.yadav2311@gmail.com
86 / 200	211 / 400	120 / 140	62%	D-	A-	sarathriet@gmail.com
58 / 200	200 / 400	123 / 140	59.5%	F	A-	shrirachanar@gmail.com
95 / 200	284 / 400	138 / 140	75.5%	C	A	simmyvarghese5@gmail.com
77 / 200	325 / 400	128 / 140	69%	D+	A	dubalsmita@gmail.com
89 / 200	261 / 400	127 / 140	70.5%	C-	A	sushma572@gmail.com
55 / 200	0 / 400	56 / 140	34.8%	F	C-	teegela.s@gmail.com
53 / 200	170 / 400	107 / 140	52.9%	F	B	85966.saini@students.itu.edu
7 / 200	168 / 400	79 / 140	43.2%	F	C+	vanisree.reddy455@gmail.com
32 / 200	240 / 400	110 / 140	55.6%	F	B+	venuboddapati@gmail.com

127. In one case, a faculty member wanted to fail a student for cheating and remove the student from class, but the Provost asked the professor not to do this so the student could keep his visa. The professor advised the Provost that this violated immigration law and he would not agree; when the Provost overruled him, the professor resigned, as seen in the following emails:

Dr. Azzouni,

Thanks for your effort to uphold the academic integrity of ITU and understanding the need for the students to attend class on-campus to stay in status. We agreed that these students will attend your class but in a different room. Since they are still enrolled in your class, could you please check their attendance? The Student Conduct Committee will support you to give F to these students.

Thanks

Karl

On Friday, July 3, 2015, Abdullah Azzouni <aazzouni@itu.edu> wrote:  
Dear Dr. Wang,

I had some time to reflect and get some advise about this situation. ~~The fact that ITU wants me to record the students attendance despite them failing the class so they can maintain their visa status is potentially in conflict with the immigration law.~~ This is something I absolutely have no intention or desire to be involved in at any cost.

So, I want to be absolutely clear about my decision. I will not record their attendance and I will not allow them into my class (as I have been doing since they cheated). The ramifications on the students outside the classroom is nothing of my concern nor is my responsibility nor it is anybody's responsibility but the students themselves. This is my final decision and I am sure I have the full support of ITU.

Best regards,

Abdullah Azzouni

On Jul 3, 2015 8:28 PM, "Karl Wang" <kwang@itu.edu> wrote:  
Dr. Azzouni,

I do not agree with you decision to not allow student to attend class because they cheated on an quiz. Doing so will cause them to loss status and possibly result in immigration problem. I will therefore allow the students to attend your class and ask registra to take attendance if you are unwilling.

Best

Karl

-----  
From: "Abdullah Azzouni" <aazzouni@itu.edu>  
Date: Jul 3, 2015 8:33 PM  
Subject: Re: Yesterday's Meeting  
To: "Karl Wang" <kwang@itu.edu>  
Cc: "Cornel Pokorny" <cpokorny@itu.edu>, "Amal Mougharbel" <amougharbel@itu.edu>

OK, you can do whatever you believe is appropriate for ITU. This will clearly undermine my position as the instructor of the class. Please find someone else to teach my classes. This is my official resignation.

128. ITU also has an informal system of promoting faculty that pass students who do not deserve it.

1 129. In at least one case, when a student attempted to submit his final assignment, he  
2 was unable to do so because the professor had already input grades before the assignment  
3 was due.

4 130. ITU engages in such grade inflation and fabrication in order to give the  
5 impression that students are actually receiving an education.  
6

7 **ITU Circumvents its own Policies to Admit Students that**  
8 **Do Not Meet SEVIS's English Proficiency Requirements**  
9 **Solely so the Applicant can Obtain an F-1 Visa**

10 131. ITU recently created a "Presidential Exception" and a "Chair Exception" that  
11 allows administrators to make admissions decisions without adhering to ordinary  
12 admissions criteria.

13 132. WASC found that these Exceptions have been used to admit students that would  
14 ordinarily be denied admission due to questionable qualifications or incomplete  
15 application documents.

16 133. For example, the 70-80 point score range on the Test of English as a Foreign  
17 Language exam ("TOEFL") is considered to be a low-level basic English proficiency,  
18 and ITU generally looks for scores of 80 or above.  
19  
20  
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28



134. But ITU regularly accepts students with low-level English proficiency, and in recent years has accepted students with TOEFL scores as low as in the fifties, as seen in the following table:

Student ID	Name	Stage	TOEFL	TOEFL/IELTS Exam Date	IELTS	Dept Chair Approval Needed?
86737	<u>Drashti Parikh</u> <u>Summer 2015</u>	Admitted ? Enrolled	75	9/27/2014		1
84790	<u>Mahesh Kumar Jakka</u> <u>Summer 2015</u>	Admitted ? Enrolled	78	1/18/2009		0
89038	<u>Bindi Shah</u> <u>Summer 2015</u>	Admitted ? Enrolled	78	2/28/2015		1
100292	<u>Sankalpa Murthy Vyakaranam</u> <u>Summer 2015</u>	Admitted	78	10/26/2008		1
89066	<u>Sapna Maheshwari</u> <u>Summer 2015</u>	Admitted	79	1/16/2015		0
89085	<u>Vanitha Jayasri Gurram</u> <u>Summer 2015</u>	Admitted ? Enrolled	56	1/31/2015	6	1
89081	<u>Megha Dhoke</u> <u>Summer 2015</u>	Admitted ? Enrolled	77	3/1/2014		1

135. And ITU was aware that SEVP requires students to be proficient in English or enrolled in courses leading to English proficiency.

136. Nor does ITU adhere to SEVP academic requirements for students on the lower end of acceptable English proficiency scores.



1 137. Patty Wiggin served as ITU's English as a second language ("ESL") Director.

2 138. But Wiggin had no experience in teaching or ESL prior to being hired.

3 139. Wiggin was hired by Mr. Khoperia because she was one of the few American  
4 students at ITU. She accepted the position in large part because ITU offered Wiggin free  
5 tuition if she worked at ITU.

6 140. In at least one incident, Saenz-Cambra observed Khoperia admonishing Wiggin.

7 141. When Saenz-Cambra asked Wiggin why Khoperia was admonishing her, Wiggin  
8 explained that Khoperia was insisting that Wiggin to write letter to SEVIS verifying the  
9 English proficiency of various students.

10 142. Wiggin did not believe that the students in question were proficient in English.

11 143. Additionally, Wiggin was unfamiliar with visa requirements and did not  
12 understand the legal significance of writing such letters.

13 144. Saenz-Cambra advised Wiggin that she should not write the letters to SEVIS if  
14 she felt that the students were not proficient in English.

15 145. Saenz-Cambra then relayed her conversation with Wiggin to Hecker.

16 146. Hecker responded as follows:

17 **From:** Barbara Hecker <bhecker0@gmail.com>

18 **Date:** January 30, 2015 at 17:29:45 PST

19 **To:** Conchi Saenz <conchisaenz@hotmail.com>

20 **Subject:** Re: Daily update

21 **Reply-To:** bhecker0@gmail.com

22 THANKS for the update. So Yau and Mikel will be out of the office next week? :) I was  
23 going to try to bargain for a nice severance package in exchange for not being there for  
24 the WASC investigation next Fri. Otherwise, I will meet with WASC and tell them  
25 everything I know. If I don't get to meet them in person, I can email them or send what I  
26 have through the hotline number they are required to give us. My plan was to negotiate  
27 a settlement. Maybe I can still do this? I'm not exactly sure how things will go next  
28 week.

Yes, Patty probably didn't realize how important her LDP program was and what she  
was signing off on... who knows.

147. Ms. Wiggin ultimately quit her job at ITU because of the pressure to engage in illegal activity.

**ITU Circumvents Other University Policies to Admit Students  
Solely so the Applicant can Obtain an F-1 Visa**

148. Sometimes Silicon Valley employers ask ITU to circumvent the admissions process so their employee can apply and gain admission to ITU solely for the purposes of obtaining an F-1 visa.

149. For example, in the email below, Tesla recently inquired about sending an employee to ITU because that employee was not able to get his H-1 work visa extended, and enrolling in a master degree program at ITU would allow the employee to obtain an F-1 visa instead.

---

From: Concepcion Saenz-Cambra  
Sent: 4/16/2015 6:35 PM  
To: Roxana Rohde  
Subject: Re: International student admission still possible?

Hey Roxana,

I have forwarded your email to Admissions and Student Services. They will be contacting you very shortly.

Thank you!

Conchi

On Thu, Apr 16, 2015 at 10:01 AM, Roxana Rohde <[roxanarohde2@gmail.com](mailto:roxanarohde2@gmail.com)> wrote:  
Hi Conchi,

My husband has an exceptional colleague in his team at Tesla Motors and might not be possible to get his current visa prolonged. I know it's last minute, but is it still possible for him to apply for a master program at ITU and get F1 visa? Tesla is willing to pay for his tuition and other fees.

Please let me know or connect me with the admission responsible at ITU for further details.

Thank you in advance,  
Roxana

150. Tesla even offered to pay the employee's tuition and fees.

151. However, the inquiry was motivated solely by the employee's need to obtain another visa, not a desire to obtain his master degree.

152. Both Tesla and the employee intended to, and in fact did continue the employee's full-time employment at Tesla.

153. ITU was aware of this intention and practice, and also aware that SEVP prohibits off-campus employment for F-1 visa students in their first year.

154. The Tesla employee in question was not able to complete his application on time, so his supervisor sent the email below asking ITU to circumvent the university's admissions policies and admit the student regardless.

----- Forwarded message -----

From: Mark Lipscomb <[mlipscomb@teslamotors.com](mailto:mlipscomb@teslamotors.com)>

Date: Sun, Aug 9, 2015 at 5:38 PM

Subject: Tesla Engineer and ITU

To: "[miran@itu.edu](mailto:miran@itu.edu)" <[miran@itu.edu](mailto:miran@itu.edu)>, "[csaenz-cambra@itu.edu](mailto:csaenz-cambra@itu.edu)" <[csaenz-cambra@itu.edu](mailto:csaenz-cambra@itu.edu)>

Dear Ms. Tran and Ms. Saenz-Cambra,

I am writing in support of Jochen Wilden's application for admission to engineering graduate studies at ITU for the upcoming Fall term. It appears that despite his best efforts to get his background paperwork in place in time, he has missed the deadline and is being told he cannot enter ITU until Spring.

On behalf of Tesla Motors, I appeal to you to give his case special consideration to see if he can be admitted in September. Otherwise, his work visa expires and he has to leave the US in October. He is an extremely valued employee and unfortunately, he missed this year's lottery for an H1B work visa. His manager rates him as one of our top engineers, and we have no doubt that he would make a solid addition to your program at ITU.

His application was derailed by a prolonged post office strike in Germany, and despite several requests, his alma mater would not FedEx his academic records to the credential equivalency evaluation company, WES. By the time the documents arrived at WES in New York, it was too late for the application deadline. (Note that Tesla had already obtained academic equivalency through another agency; unfortunately not one recognized by ITU, see attached.)

If you would reconsider his application for the Fall Term, please be assured that he has the full support of Tesla to make this a success all around. If there is anything we can do on our end, please do not hesitate to call me (cell number below) or email me. Thank you for your consideration. I look forward to hearing back from you.

Best,

Mark

Mark Lipscomb | Vice President, HR

[408.679.4335](tel:408.679.4335) | [mlipscomb@teslamotors.com](mailto:mlipscomb@teslamotors.com)

155. And ITU did, because, in the Provost's words in the following email, "Tesla is a good and well respected company" and university staff should "take this opportunity to establish a relationship with Tesla to pave the way for other internship opportunity for other students."

----- Forwarded message -----

From: Karl Wang <[kwang@itu.edu](mailto:kwang@itu.edu)>

Date: Sun, Aug 9, 2015 at 8:36 PM

Subject: Re: Tesla Engineer and ITU

To: Concepcion Saenz-Cambra <[csaenz-cambra@itu.edu](mailto:csaenz-cambra@itu.edu)>, Mary Tran <[mtran@itu.edu](mailto:mtran@itu.edu)>

Cc: Timothy Li <[tli@itu.edu](mailto:tli@itu.edu)>

I think Tesla is a good and well respected company who is very selective in choosing their employee. Therefore, we can consider conditional admission for the fall trimester based on the recommendation and credential presented by Tesla. In the meanwhile, the student needs to complete his diploma certification from WES to be considered for admission as a regular student. Of course, the student has to following the Internship policy that applied to all incoming students.

I encourage Tim to take this opportunity to establish a relationship with Tesla to pave the way for other internship opportunity for other students.

Thanks

Karl

-----  
Dr. Karl L. Wang  
Provost  
Director of Technology  
Professor of Electrical and Computer Engineering  
International Technological University ([www.itu.edu](http://www.itu.edu))  
2711 North First Street  
San Jose, CA 95134  
(408)204-6832

#### ITU's "Internship" Program

156. Such full-time employment arrangements are commonplace at ITU, even though SEVP prohibits off-campus employment during the first year of studies on an F1 visa.

157. In fact, ITU requires all of its students to hold at least one internship.

158. ITU works closely with Silicon Valley employers to facilitate arrangements similar to that with Tesla.

159. That is, employers hire ITU's international students for full-time 'internships,' without the hassle of obtaining an H-1 work visa for the employee.

160. Many large Silicon Valley employers are complicit in the arrangement, and take advantage of the 'internship' program liberally.

161. For example, Beta Soft has hired several ITU students as 'interns,' as can be seen in ITU's student files:

sites ▸ ITU Course Records ▸ CPT Internships ▸ Betasoft Systems - IT Consultancy Interns ▾				
are with ▾    Burn    New folder				
<input type="checkbox"/> Name	Date modified	Type	Size	
Business Analyst - Bhagyashri Ritpurkar - Last Found	3/30/2015 12:50 A...	PDF File	125 KB	
Business Analyst - Bhavna Pawar	3/30/2015 12:09 A...	Microsoft Word D...	23 KB	
QA Analyst - Jyoti Kaushik	3/29/2015 11:28 PM	PDF File	198 KB	
QA Analyst - Purva Gajeralwar	3/30/2015 12:04 A...	PDF File	224 KB	
QA Tester - Beauty Devpura	3/29/2015 11:53 PM	Microsoft Word D...	19 KB	
QA Tester - Kakali Mahapatra	3/29/2015 11:49 PM	PDF File	111 KB	
QA Tester - Pinali Vasoya	3/29/2015 11:27 PM	Microsoft Word D...	219 KB	
Recruiter Intern - FNU Anuradha	3/29/2015 2:37 PM	PDF File	267 KB	
Sr. Business Analyst - Aditya Chenchu	3/29/2015 11:30 PM	Microsoft Word D...	16 KB	

162. But the job titles of these students indicates that these are ordinary full-time positions, not internships, and these 'internships' do not meet the criteria for SEVP approved student employment.

163. SEVP requires any off-campus student employment to be related to their area of study, but many ITU students work in full-time positions that have nothing to do with their studies.

164. For example, one ITU student studying Computer Science was employed by Beta Soft as a recruiter (though the position title admittedly included the term “intern” in name), as seen in the offer letter below:

December 02, 2014

**To Whomsoever It May Concern:**

Beta Soft Systems located at 42808 Christy Street, Suite 101, Fremont, CA 94538 has offered FNU Anuradha the position of Recruitment Management Intern.

FNU Anuradha will be working at location 42808 Christy Street, Suite 101, Fremont, CA 94538. She will be working 40 hours paid full time per week as an intern and her start date will be from January 20, 2015.

**Responsibilities:**

Candidate will work on following IT technologies/ Responsibilities that will be used in different projects on client's side:

- Responsible for hiring the candidates for the technical and management positions.
- Interviewing the candidates based on their technical skills and behavioral skills.
- Creating project related documentation.
- Creating Test Plan for increasing the revenue for the company.
- Conducting JAD sessions to discuss the marketing strategies and plans for the growth of the company.
- Working on the Job Description of the candidates by using the engineering and programming skills like Java, C++, C, VB, XML Programming languages.
- Using SQL as a Database.
- Quality Assurance Testing Tools.

165. In another instance, an ITU student was found to be ‘interning’ at a gas station.

166. Still others are employed on a full-time basis across the country.

167. At least one student attempted to earn internship credit for working at his own company.

168. ITU does not track where its students are employed.

169. Students receiving credit for the internship class must provide an internship contract at the beginning of the semester listing the company, and complete a short write up about their internship experience at the end of the semester, but ITU keeps no formal employment or internship records for students.

170. Despite so many international students working full-time and either failing to attend class or performing poorly in class, ITU continues to certify to the government that these individuals are students.

171. However, these individuals essentially use the F-1 visas they obtain by enrolling at ITU as H-1 work visas.

172. Silicon Valley employers are implicit in this scheme because F-1 visas are far cheaper than H-1 work visas, which cost \$2,325, and unlike H-1 visas, which are capped at 65,000 issued per year, there is no cap on F-1 visas, so F-1 visas are far easier to obtain.

173. However, when these Silicon Valley employers enroll an employee at ITU, they lie in order to obtain the F-1 visa.

174. And when Silicon Valley employers hire ITU students on F-1 visas as regular full-time employees, ITU, the employer, and the student all lie to the government.

**ITU's Fraudulent and Questionable Activities are Increasing**

175. From 2005 to 2014, ITU's enrollment has sharply risen. In 2008, ITU enrolled over 600 students, and by 2014, that number had increased to over 1500 students.

176. On or about January 19, 2011, Tri Valley University ("TVU"), a nearby school, was shut down after the government found that the school was perpetuating visa fraud on a widespread basis. Over 90% of TVU's student body was from India, 'studying' on F-1 student visas. But federal investigators found that the vast bulk of TVU's classes were scarcely attended or fictional. Many students lived outside of California, and the extent of their TVU education was paying \$2,700 per semester in exchange for a student visa.

177. ITU absorbed many of TVU's international students after TVU's shut-down. On or about February 16, 2011, ITU held a mandatory orientation for International Students.

1 The students appeared to already be admitted but, as seen below, the Mandatory  
2 Orientation Notice indicates that the students had not yet applied to ITU:

## 3 **Mandatory Orientation Notice**

4  
5 *February 16, 2011 : Events*

6 February 16, 2011

### 7 **MANDATORY ORIENTATION NOTICE**

8 Dear Applicant:

9  
10 Welcome to International Technological University. We look forward to having you participate in  
the International Student Program on February 17, 2011 at 12 pm by Dr Greg O'Brien.

11 This Student Orientation provides former Tri-Valley students a comprehensive overview of the  
12 Application Process and the International Student Program.

13 Following Topics will be discussed during the course of the event:

- 14
- 15 • Filling and Submission of the Application Form
  - 16 • Furnishing of Supporting Documents
  - 17 • Information about the School Policies
  - 18 • Briefing about Departments and Courses
  - 19 • Protocol for Classes

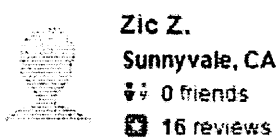
20 A Q&A Section answering the student concerns and queries will succeed these events.

21 NOTE: It is MANDATORY for all the former Tri-Valley Students who wish to join International  
22 Technological University to attend this orientation.

23  
24  
25  
26  
27  
28 178. By around that time, ITU's reputation as a "visa mill" was well established.



179. One student described ITU as follows:



9/14/2011

First to Review

This is the most stupid school I have ever seen.. teachers are fine.. but the accounting and registration staff is pathetic... all they care about money not even a 5% concern about students.. its just a money machine and nothing else.. they changed admission's staff last sem but it has gone down even more..

I know a lot of students from this school and everybody has taken admission in this school for visa purpose... there is not even a single local student here.. ITU is a big fat joke....

Get in to state university if you care about your future and career.

BUT STAY AWAY FROM THIS SCHOOL IF YOU WANT TO LEARN SOMETHING

Was this review ...?

Useful 20 Funny 9 Cool 5

180. In one incident, Y. Chan discussed TVU with Saenz-Cambra.

181. Y. Chan advised Saenz-Cambra that TVU got in trouble because all of TVU's students had the same address recorded.

182. Y. Chan assured Saenz-Cambra that ITU would not end up in the same trouble with the Government because ITU's records reflected different addresses for all of ITU's students.

183. Y. Chan said nothing to dispel the implication that ITU was otherwise engaged in the same fraud as TVU.

184. In December 2015, the government barred students from leaving India in order to attend two Silicon Valley schools under suspicion for similar visa fraud: Silicon Valley University ("SVU"), and Northwestern Polytechnic University ("NPU").

1 185. Since then, similar to when TVU closed, students from these universities have  
2 contacted ITU about transferring.

3 186. As the fraud has expanded, more irregularities have occurred.

4 187. For example, in one particularly irregular incident, in late February, 2016, Ahmad  
5 Shaar, a student, asked Saenz-Cambra for a letter verifying that he was a full-time Ph.D.  
6 student.  
7

8 188. When Saenz-Cambra attempted to verify his status, she found that Shaar had not  
9 taken any classes since 2013, and had been enrolled as a Masters student, not a Ph.D.  
10 student.

11 189. Shaar advised Saenz-Cambra that he was a scholarship student, so Saenz-Cambra  
12 followed up with ITU's CFO, Edward Lam.

13 190. Lam confirmed that Shaar was a scholarship student and explained that it was a  
14 "hush-hush scholarship."  
15

16 191. Lam advised Saenz-Cambra that ITU had not been able to get Shaar into the US  
17 from Lebanon on a student visa, so ITU sponsored him to obtain an H1B visa instead.

18 192. To do this, ITU put Shaar down on their books as an instructor.

19 193. Shaar was then able to get a job elsewhere, and had worked there since.

20 194. Shaar came to Saenz-Cambra because he had lost his job and wanted to get a  
21 student visa so he could stay in the country.  
22

23 195. Saenz-Cambra asked Lam for documentation relevant to Shaar's student status.

24 Lam advised her that ITU has a file for Shaar in Human Resources, but has not kept any  
25 other information on Shaar required for a student visa.

26 196. ITU now plans to apply for Title IV funding with the United States Department of  
27 Education.  
28

197. This effort is being led by ITU Head of Compliance Khoperia, a lead perpetrator of the visa document falsification scheme.

198. To receive Title IV funding, a school must sign a Program Participation Agreement (“PPA”). PPAs require schools to certify that they are in compliance with their accrediting agency’s standards.

199. As discussed above, ITU is not in compliance with its accrediting agency’s standards.

**ITU’s Attempts to Cover its Fraud**

200. As a result of Saenz-Cambra filing this *qui tam* suit, the Government is currently investigating ITU’s fraud.

201. When ITU learned of the Government’s investigation, ITU hired a team of ten attorneys and signed a \$1 million contract with them.

202. The Government has asked ITU for certain documents relating to the fraudulently obtained visas.

203. Saenz-Cambra recently learned that Mikel Duffy deleted a significant amount of data that pertained to himself.

204. Wes Takahashi, ITU’s Chair of Digital Arts, advised Saenz-Cambra that the deletion related to visa activity that had occurred while Duffy was ITU’s General Manager and, along with Sara Javid, was responsible for the ISO.

205. Takahashi told Saenz-Cambra that the visa activity was apparently of such a criminal nature that ITU officials believed exposing it would lead to the school’s closure.

206. ITU’s Director of Human Resources, Leslie Anderson, corroborated this to Saenz-Cambra and advised her that the now-deleted documents were so egregious that Duffy “would go to jail, for sure, and ITU will be shut down.”

1 207. Because of the fraudulent visa activity, ITU terminated Javid's employment and  
2 reprimanded Duffy.

3 208. ITU is contemplating terminating Duffy to appear as if the university had only  
4 now found out about his mismanagement of visas.

5 209. ITU has failed to retain most of the documents that the Government requested.

6 210. ITU stores all previous student records and ISO records prior to 2013 at an offsite  
7 storage location.

8 211. As far as Ms. Saenz-Cambra knows, only Sophia Gu, Director of Student  
9 Services, and Associate Director of Facilities Development and Operations, Ferdinand  
10 Luis, Jr. have keys to the storage unit.

11 212. But these documents fall under the purview of ITU Registrar Nancy Jo Black,  
12 who does not have access to the documents.

13 213. Jeremy Wintringer, ITU's Head of ISO, recently attempted to access these  
14 documents outside the presence of Black.

15 214. To investigate ITU's fraud, the Government also contacted Howard, who had  
16 previously worked in the ISO.

17 215. Howard contacted ITU and advised them that the government had contacted her.

18 216. After Howard contacted ITU, O'Brien directed the academic team to award  
19 Howard a Masters degree even though Howard had only taken online courses and ITU is  
20 not accredited to grant online-only degrees.

21 217. O'Brien also directed the academic team to grant a Masters degree to another  
22 employee who had not earned the degree, Stephanie Vang, a counselor for the school.

23 218. ITU is also in the process of moving all of the university's banking and financial  
24 transactions to China.

**ITU's Intimidation and Retaliation Against those who Attempt to Do Right**

219. ITU responds to staff attempting to remedy ITU's illegal conduct with intimidation and retaliation.

220. For example, in or about October 2014, Rebecca Choi resigned as a result of political maneuvering by those propagating the illegal behavior at ITU.

221. In the following months, Gu told her direct reports, including Relator Saenz-Cambra to disregard direct requests from President Y. Chan. Most of Gu's direct reports obeyed her direction, and when Saenz-Cambra attempted to do her job and carry out Y. Chan's requests, she was stonewalled by Gu's other direct reports. As a result of Saenz-Cambra's resistance, Gu ceased all one-on-one meetings with Saenz-Cambra.

222. Gu also prevented staff from remedying ITU's illegal activity by refusing to hold meetings for the Department of Academic Services.

223. In about January 2015, Gu advised Saenz-Cambra that there were going to be changes in upper management and that Saenz-Cambra "should start interviewing for other jobs."

224. At the same time, Khoperia continued to blatantly disregard the law in his management of the ISO office and interfere with his subordinates' attempts to comply with the law.

225. On or about January 27, 2015, Y. Chan offered Relator Saenz-Cambra the Head of Academic Services position because Y. Chan recognized that Saenz-Cambra could help correct ITU's non-compliance as Head of Academic Services.

226. Later that night, Saenz-Cambra's colleague, Lei Gong, walked her to the train station and told her not to take the job and that there would be consequences she could

1 not foresee, including legal consequences. Gong told Saenz-Cambra that she should quit  
2 her job and leave ITU.

3 227. Shortly thereafter, WASC visited ITU and issued its poor evaluation of the  
4 school.

5 228. As a result of WASC's report, the Board of Trustees removed Y. Chan as  
6 President and instated Gregory O'Brien as President.

7 229. In or about early February, 2015, O'Brien demoted Bhargava, who had taken over  
8 the ISO after Khoperia was promoted and drastically improved the ISO's efficiency and  
9 compliance with the law from Khoperia's tenure.

10 230. O'Brien stated that Bhargava was demoted because an immigrant could not  
11 legally be the Head of ISO, but Bhargava was a DSO and, as such, was qualified and  
12 legally allowed to issue I-20s and access SEVIS records. Furthermore, there was no such  
13 law prohibiting an immigrant from holding the position.

14 231. Bhargava was actually demoted because he was properly trained on I-20s and  
15 SEVIS and, under his watch, F-1 visas could not illegally be given to individuals barely  
16 purporting to be students.

17 232. On or about March 26, 2015, Saenz-Cambra learned that a news organization was  
18 going to do a piece on ITU's transgressions. Saenz-Cambra reported what she learned to  
19 the Board of Trustees' attorney.

20 233. O'Brien was infuriated by Saenz-Cambra's actions and told her that she was not  
21 allowed to speak to the Board of Trustees' attorney again.

22 234. Shortly thereafter, O'Brien promoted Gu, despite the many complaints about her  
23 management.

1       235.       On or about June 26, 2015, Saenz-Cambra and several other staff members  
2       brought ITU's transgressions to the Board of Trustees' attention. The following day, the  
3       Chairman of the Board held a meeting to discuss the allegations.

4       236.       During the July 27, 2015 meeting, O'Brien and the Provost, Karl Wang, were  
5       implicated in the wrongdoing.

6       237.       At the meeting, Wang told Saenz-Cambra and the other Heads of Department that  
7       "if [they] want to work for him, [they] have to do what he tells [them] to do or [they] can  
8       leave."

9       238.       The following day, Saenz-Cambra sent an email to the Head of Human Resources  
10       ("HR"), Leslie Anderson, detailing what happened at the meeting. On or about July 29,  
11       2015, Anderson advised Saenz-Cambra that Wang wanted Saenz-Cambra fired.  
12       Anderson also told Saenz-Cambra that she had told Wang that ITU must issue Saenz-  
13       Cambra a warning before ITU could terminate Saenz-Cambra's employment.

14       239.       On or about August 3, 2015, Saenz-Cambra met with Wang and Anderson.

15       240.       At the meeting, Wang provided Saenz-Cambra with several informal complaints  
16       about her performance.

17       241.       Wang also told Saenz-Cambra that she was not allowed to attend a Board of  
18       Trustees meeting again without providing 48 hours' notice, and reiterated his earlier  
19       direction that Saenz-Cambra was not allowed to talk to the Board of Trustees' attorney,  
20       even if the attorney contacts her directly.

21       242.       In an effort to prevent ITU's wrongdoing from being exposed to Board of Trustee  
22       members and the public, ITU officials continued to threaten, intimidate, and retaliate  
23       against Saenz-Cambra and other employees for the duration of Saenz-Cambra's  
24       employment.  
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1       243.       When ITU became aware that the government was investigating the university,  
2               ITU began surveilling Saenz-Cambra's emails.

3       244.       Finally, ITU terminated Saenz-Cambra's employment on March 24, 2016.

4       245.       ITU advised Saenz-Cambra that she was being terminated due to a heated email  
5               she sent in opposition to Gu's unilateral decision to name Jarod Hightower-Mills as the  
6               new Head of ISO.

7       246.       The email was sent to, but not directed at, Anderson.

8       247.       Hightower-Mills had not been interviewed for the position; his interview was  
9               inexplicably cancelled by HR minutes before it should have began, and shortly thereafter  
10              HR announced that he had been given the position, without any discussion of the other  
11              candidate that had been interviewed.

12       248.       Hightower-Mills worked in the ISO before that, and engaged in many of the  
13               practices Saenz-Cambra found troubling, including advising students that the ISO would  
14               verify their class attendance for SEVIS inquiries, which the ISO could not do.

15       249.       In February, 2016, just a month before being terminated, Saenz-Cambra had  
16               received a performance review in February, during which she earned "Excellent" marks.

17       250.       Saenz-Cambra has since learned that other individuals, including Anderson, were  
18               opposed to her termination, but O'Brien overruled them.

19       251.       ITU, after surveilling Saenz-Cambra's emails, deducted that Saenz-Cambra was  
20               the person who had filed a *qui tam* suit under the False Claims Act.

21       252.       ITU's explanation for terminating Saenz-Cambra is pretext.

22       253.       ITU terminated Saenz-Cambra in retaliation for filing a *qui tam* suit against ITU  
23               pursuant to the False Claims Act.



1 254. After her termination, Saenz-Cambra was contacted by Bhagat Patlolla, ITU's  
2 Chair of Interdisciplinary Sciences.

3 255. Patlolla told Saenz-Cambra that he had just been promoted by O'Brien, and asked  
4 Saenz-Cambra not to talk to "anyone" about ITU.

5 256. Patlolla explained that he was in the country on a visa sponsored by ITU, and that  
6 if the school was shut down, he and many other of her former colleagues would be  
7 deported.

8 257. O'Brien asked Patlolla to speak with Saenz-Cambra in yet another attempt to  
9 cover up ITU's fraud.

# COUNT 1

## **ITU'S FALSE CERTIFICATIONS TO THE GOVERNMENT IN ORDER TO OBTAIN STUDENT VISAS**

12 258. Relator re-alleges and incorporates the allegations in paragraphs 1-256 as if fully  
13 set forth herein.

14 259. By virtue of the acts described in the preceding paragraphs, Defendants  
15 knowingly made, used, and caused to be presented to the United States Government  
16 and its agencies false or fraudulent claims about individuals' student status.

17 260. Defendants, by representing to the U.S. Government and its agencies that the  
18 individuals enrolled at ITU were students complying with full-time attendance  
19 requirements, living within the required geographic radius around ITU, working in  
20 internships relative to their respective academic programs, and meeting other SEVIS  
21 academic requirements, fraudulently induced the Government to grant individuals F-1  
22 visas in violation of 31 U.S.C. § 3729(a)(1)(B).  
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1       261. Prior to submitting the I-20 forms supporting individuals' F-1 visa applications,  
2       Defendants knew that these individuals were not complying with SEVIS requirements  
3       and were using F-1 visas as H-1 work visas.

4       262. The U.S. Government and its agencies relied on Defendants'  
5       misrepresentations about the individuals enrolled at ITU complying SEVIS  
6       requirements, and would not have approved these individuals' F-1 visas had  
7       the Government been aware that these individuals were not attending class,  
8       were working full-time in jobs unrelated to their education, and were failing to  
9       meet other SEVIS academic requirements such as English proficiency.

11                               **COUNT 2**

12                   **ITU'S FALSE CERTIFICATIONS TO THE GOVERNMENT IN ORDER**  
13                   **TO AVOID PAYING HIGHER WORK VISA FEES**

14       263. Relator re-alleges and incorporates the allegations in paragraphs 1-262 as if fully  
15       set forth herein.

16       264. By virtue of the acts described in the preceding paragraphs, Defendants conspired  
17       to knowingly make, use, and cause to be presented to the United States Government  
18       and its agencies false or fraudulent claims about individuals' student status.

19       265. Defendants conspired to represent to the U.S. Government and its agencies that  
20       the individuals enrolled at ITU were students complying with full-time attendance  
21       requirements, living within the required geographic radius around ITU, working in  
22       internships relative to their respective academic programs, and meeting other SEVIS  
23       academic requirements, with knowledge that these representations were false.

24       266. Defendants conspired to make these false or fraudulent claims in order to  
25       fraudulently induce the Government to grant individuals F-1 visas in violation of 31  
26       U.S.C. § 3729(a)(1)(C).  
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**COUNT 3**

**DEFENDANTS' CONSPIRACY TO MAKE FALSE CERTIFICATIONS TO THE  
GOVERNMENT IN ORDER TO AVOID PAYING HIGHER WORK VISA FEES**

267. Relator re-alleges and incorporates the allegations in paragraphs 1-266 as if fully set forth herein.

268. By virtue of the acts described in the preceding paragraphs, Defendants knowingly made, used, and caused to be presented to the United States Government and its agencies false or fraudulent claims about individuals' student status.

269. Defendants, by representing to the U.S. Government and its agencies that the individuals enrolled at ITU were students complying with full-time attendance requirements, living within the required geographic radius around ITU, working in internships relative to their respective academic programs, and meeting other SEVIS academic requirements, made false statements material to an obligation to pay or transmit money to the government.

270. Defendants' false representations to the government induced the government to improperly grant individuals' F-1 visas instead of H-1 visas.

271. The government relied on Defendants' false statements in approving the F-1 visas, and would not have approved the F-1 visas but for Defendants' false statements.

272. Defendants' false statements caused Defendants to knowingly and improperly avoid or decrease Defendants' obligation to pay or transmit money or property to the Government, in violation of 31 U.S.C. § 3729(a)(1)(G).

273. As a result of Defendants' false statements, Defendants knowingly and improperly paid less monies to the government for F-1 visas than they would have if Defendants properly obtained H-1 visas for the individuals.

AMENDED COMPLAINT  
CASE NO. 15-cv-04654-EDL

1 (b) That civil penalties of \$11,000 be imposed for each and every false claim that  
2 Defendants presented to the United States;

3 (c) That pre- and post-judgment interest be awarded, along with reasonable attorneys'  
4 fees, costs, and expenses, which Relator necessarily incurred in bringing and pressing this  
5 case;

6 (d) That the Court grant permanent injunctive relief, including a restraining order to  
7 freeze property traceable to the fraud, to prevent any recurrence of violations of the False  
8 Claims Act for which redress is sought in this Complaint;

9 (e) That Relator be awarded the maximum percentage of any recovery allowed to her  
10 pursuant to the False Claims Act, 31 U.S.C. 3730(d)(1),(2);

11 (f) That Relator be awarded economic, compensatory, and punitive damages in  
12 relation to ITU's retaliation against her; and  
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14 (g) That this Court award such other and further relief as it deems proper.  
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**DEMAND FOR JURY TRIAL**

Relator, on behalf of herself and the United States, demands a jury trial on all claims  
alleged herein.

Dated: August 12, 2016

Respectfully submitted,

By:

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES *ex rel.*,  
[UNDER SEAL]

Relator,

v.

[UNDER SEAL]

[UNDER SEAL]

[UNDER SEAL]

[UNDER SEAL]

Defendants.

Civil Action No.: 15-cv-04654-~~EDL~~ <sup>WHO</sup>

JURY TRIAL DEMAND

FILED IN CAMERA AND

UNDER SEAL PURSUANT TO  
31 U.S.C. § 3730

DO NOT ENTER INTO PACER

DO NOT ENTER IN CM/ECF

DO NOT PLACE IN PRESS BOX

**FILED UNDER SEAL**