

Whistleblower Suit against Student Loan Companies Unsealed in Federal District Court

September 1, 2009

The United States District Court for the Eastern District of Virginia today unsealed a lawsuit against a number of student loan companies, including Nelnet, Inc and Sallie Mae, filed on behalf of the United States by Dr. Jon H. Oberg. The action seeks the return of approximately \$1 billion in “special allowance” payments wrongfully extracted from the United States Department of Education by the defendants. Under a federal student loan program that was intended to be phased out beginning in 1993, student loan companies were eligible for “special allowance” payments that provided interest rates subsidies guaranteeing a 9.5% return on a limited class of student loans generated from monies raised prior to 1993 with tax-free obligations. Faced with a prohibition on generating new eligible loan pools, the loan companies used sham transactions known internally by names such as “dipping” to multiply the loans on which subsidy payments were claimed and thereby swell their profits at taxpayer expense. The result was an approximately **\$1 billion windfall** which Dr. Oberg now is seeking to recover for the government.

Federal law provides a *qui tam* remedy to recover government payments made pursuant to illegal claims. *Qui tam* claims can be brought by knowledgeable individuals, acting as “private attorneys general” on behalf of the government. Dr. Oberg, who filed the Complaint, retired in 2005 after a distinguished career in academia and public service. As a researcher at the Department’s Institute of Educational Sciences, an arm of the Department legislatively separated from loan administration, he discovered the illegal claims described in the Complaint and reported them through his chain of command.

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After being directed by his supervisor not to pursue the issue, Dr. Oberg conducted an investigation that revealed the magnitude of the fraudulent claims. In describing the suit, Dr. Oberg stated that “I have always been a strong supporter of the mission of the Department of Education. However, particularly in these difficult times, it is critical for both taxpayers and students that federal funds be used to support students in need, not to enrich lenders unlawfully.”

The case is expected to go to trial in Federal District Court early next year.