

NEWS RELEASES

PUBLISHED: JUNE 18, 2015

Services

Appellate
Litigation &
Alternative Dispute
Resolution

Industries

Education
Healthcare
Life Sciences

Professionals

MARTIN M. LORING
KANSAS CITY:
816.983.8142
MARTIN.LORING@
HUSCHBLACKWELL.COM

DEREK T. TEETER
KANSAS CITY:
816.983.8331
DEREK.TEETER@
HUSCHBLACKWELL.COM

Husch Blackwell Education Attorneys Secure Victory for Sanford-Brown College in Title IV False Claims Act Case

On June 8, 2015, the U.S. Court of Appeals for the Seventh Circuit ruled in favor of Husch Blackwell client Sanford-Brown College, rejecting an alleged whistleblower’s overbroad theory of liability under the False Claims Act (FCA). Husch Blackwell Higher Education partners Martin Loring and Derek Teeter represented Sanford-Brown before the Seventh Circuit.

The court ruled that a college or university is liable under the FCA only if the initial Title IV application was fraudulent. Liability is not triggered by the institution’s failure to comply with the thousands of pages of federal statutes and regulations incorporated by reference into a Program Participation Agreement (PPA), according to the opinion.

“This is a very important decision that will be extremely valuable on a number of different issues to colleges and universities in defense against False Claims Act cases,” Loring said. “In essence, the court’s ruling establishes that colleges and universities should not be subjected to draconian liability under the FCA due simply to their failure to comply with one or more of myriad regulations.”

In the case, *United States v. Sanford-Brown, Ltd., No. 14-2506*, the relator, a former employee, alleged the college’s recruiting and student retention practices violated a number of the U.S. Department of Education’s regulations that institutions must agree to in order to participate in the Department’s Title IV program that governs grant, loan and work study funding. The relator argued that compliance with the Title IV regulations was a “condition of payment” such that, if the college knowingly violated any one of the regulations after signing the Department’s Program Participation Agreement

(PPA), the college effectively destroyed its eligibility to receive any Title IV funding. However, the relator had no evidence the college expressly misrepresented its compliance with the regulations to the Department after it signed the PPA.

The Seventh Circuit rejected the relator's claims and affirmed the district court's grant of summary judgment, stating that although an institution that violates regulations may be subject to regulatory penalties imposed by the Department, the court held such an institution does not automatically lose its Title IV eligibility and, therefore, each and every subsequent Title IV payment is not a "false claim" that must be repaid to the government under the FCA.

More than 100 clients turn to Husch Blackwell's Higher Education attorneys for legal guidance. The team represents major research institutions, regional universities, private colleges, nursing and allied health schools, community colleges, proprietary schools and publicly traded school groups, and help clients identify and resolve potential problems and litigation through compliance audits, policy programs, training and general counsel services.

Past results afford no guarantee of future results and every case is different and must be judged on its own merits.